

REAL PROPERTY TAX

Chapter 8

REAL PROPERTY TAX

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Article 1. Administration

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Sec. 8-1.1 Legislative intent.

The purpose of this chapter is to implement the authority granted to the City and County of Honolulu to assess, impose and collect real property taxes based on an amendment to the Constitution of the State of Hawaii which was adopted on November 7, 1978, by the electorate. (Added by Ord. 80-72)

Sec. 8-1.2 Definitions.

Wherever used in this chapter:

"City" means the City and County of Honolulu.

"Director" means the director of finance of the City and County of Honolulu or the director's authorized subordinate.

"Property" or "real property" means and includes all land and appurtenances thereof and the buildings, structures, fences and improvements erected on or affixed to the same, and any fixture which is erected on or affixed to such land, buildings, structures, fences and improvements, including all machinery and other mechanical or other allied equipment and the foundations thereof, whose use thereof is necessary to the utility of such land, buildings, structures, fences and improvements, of whose removal therefrom cannot be accomplished without substantial damage to such land, buildings, structures, fences and improvements, excluding, however, any growing crops. (Sec. 8-1.1, R.O. 1978 (1983 Ed.))

Sec. 8-1.3 Duties and responsibilities of the director.

The director shall have the following duties and powers, in addition to any others prescribed or granted by this chapter:

- (a) **Assessment.** To assess, pursuant to law, all real property situated within the geographic boundary of the City and County of Honolulu for taxation of real property and to make any other assessment by law required to be made by the director.
- (b) **Collections.** To be responsible for the collection of all taxes imposed by this chapter and for such other duties as are provided by law.
- (c) **Construction of Revenue Laws.** To construe the provisions of this chapter, the administration of which is within the scope of the director's duties, whenever requested by any officer or employee of the city, or by any taxpayer.
- (d) **Enforcement of Penalties.** To see that penalties are enforced when prescribed by this chapter (the administration of which is within the scope of the director's duties) for disobedience or evasion of its provisions, and to see that complaint is made against persons violating any provisions of this chapter; in the execution of these powers and duties, the director may call upon the corporation counsel or prosecuting attorney, whose duties it shall be to assist in the institution and conduct of all proceedings or prosecutions for penalties and forfeitures, liabilities and punishments for violation of the provisions of this chapter in respect to the assessment and taxation of real property.
- (e) **Forms.** To prescribe forms to be used in or in connection with the provisions of this chapter, including forms to be used in the making of returns by taxpayers or in any other proceedings connected with the provisions of this chapter and to change the same from time to time as deemed necessary.
- (f) **Maps.**
 - (1) The director shall provide for the City and County of Honolulu, maps drawn to appropriate scale, showing all parcels, blocks, lots or other divisions of land based upon ownership, and their areas or dimensions, numbered or otherwise designated in a systematic manner for convenience of identification, valuation and assessment. The maps, as far as possible, shall show the names of owners of each division of land, and shall be revised from time to time as ownership changes and as further divisions of parcels occur. The director shall also maintain, as and when such information is available, maps showing present use, zoning and physical use capabilities of land located within the City and County of Honolulu for the guidance of assessors and the information of various tax review tribunals and the general public.
 - (2) The director shall charge fees for the use and other disposition of tracings of these maps, including copies or prints made therefrom, by private persons or firms as provided for by ordinance.
- (g) **Inspection, Examination of Records and Property.** The director shall have the authority to inspect and examine the records and property of all public officers without charge, and to examine the books and papers of account of any person for the purpose of enabling the director to obtain all information that could in any manner aid the director in discharging the director's duties under this chapter.
- (h) **Inspection, Examination of Real Property.** To inspect and examine the real property of any person for the purpose of enabling the director to attain all information that could in any manner aid the director in discharging the director's duties under this chapter.

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- (i) Recommendations for Legislation. To recommend to the mayor such amendments, changes or modifications of the provisions of this chapter or any applicable state statutes as may seem proper or necessary to remedy injustice or irregularity, or to facilitate the assessment of property under this chapter.
- (j) Report to Mayor. To report to the mayor annually, and at such other times and in such manner as the mayor may require, concerning the acts and doings and the administration of the director's department, and such other matters or information concerning real property taxation as may be deemed of general interest; the mayor shall transmit copies of such reports to the council within 30 days of receipt.
- (k) Rules and Regulations. To promulgate such rules and regulations as the director may deem proper, and to effectuate the purposes for which the director's department is constituted, and to regulate matters of procedure by or before the director pursuant to the provisions of HRS Chapter 91.
- (l) Compromises. With the approval of the corporation counsel, to compromise any claim arising under this chapter not exceeding \$500.00 and if a claim exceeds \$500.00, the director shall obtain the approval of the city council, the administration of which is within the scope of the director's duties; and in any such case, there shall be placed on file and in the director's department's office a statement of (1) the amount of tax assessed, or proposed to be, (2) the amount of penalties and interest imposed or proposed to be assessed, (3) the amount of penalties and interest imposed or which could have been imposed by law with respect to the item (1) as computed by the director, (4) the total amount of liability as determined by the terms of the compromise, and the actual payments made thereon with the dates thereof, and (5) the reasons for the compromise.
- (m) Retroactivity of Rulings. To prescribe the extent, if any, to which any ruling, regulations or construction of the provisions of this chapter shall be applied without retroactive effect.
- (n) Remission of Delinquency Penalties and Interest. Except in cases of fraud or wilful violation of the provisions of this chapter or wilful refusal to make a return setting forth the information required by this chapter (but inclusion in a return of a claim of nonliability for the tax shall not be deemed a refusal to make a return), the director may remit any amount of penalties or interest added, under this chapter, to any tax that is delinquent for not more than 90 days, in a case of excusable failure to file a return or pay a tax within the time required by this chapter, or in a case of uncollectibility of the whole amount due; and in any such case there shall be placed on file in the director's office a statement showing the names of the person receiving such remission, the principal amount of the tax, and the year or period involved.
- (o) Closing Agreements. To enter into an agreement in writing with any taxpayer or other person relating to the liability of such taxpayer or other person, under this chapter, the administration of which is within the scope of the director's duties, in respect of any taxable period, or in respect of one or more separate items affecting the liability for any taxable period; such agreement, signed by or on behalf of the taxpayer or other person concerned, and by or on behalf of the city, shall be final and conclusive, and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, (1) the matters agreed upon shall not be reopened, and the agreement shall not be modified, by any officer or employee of the city, and (2) in any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, refund or credit made in accordance therewith, shall not be annulled, modified, set aside or disregarded.
- (p) Other Powers and Duties. In addition to the powers and duties contained in this section, the assessing, collecting, receiving, and enforcing payments of the tax imposed hereunder, and otherwise relating thereto, shall be severally and respectively conferred, granted, practiced and exercised for levying, assessing, collecting and receiving and enforcing payment of the taxes imposed under the authority of this chapter.

(Sec. 8-1.2, R.O. 1978 (1983 Ed.))

Sec. 8-1.4 Oaths.

The director may administer all oaths or affirmations required to be taken or be administered under this chapter.

(Sec. 8-1.3, R.O. 1978 (1983 Ed.))

Sec. 8-1.5 Hearings and subpoenas.

The director may conduct any inquiry, investigation or hearing, relating to any assessment, or the amount of any tax, or the collection of any delinquent tax, including any inquiry or investigation into the financial resources of any delinquent taxpayer or the collectibility of any delinquent tax. The director may administer oaths and take testimony under oath relating to the matter of inquiry or investigation, and subpoena witnesses and require the production of books, papers, documents and records pertinent to such inquiry. If any person disobeys such process, or, having appeared in obedience thereto, refuses to answer pertinent questions put to such person by the director or to produce any books, papers, documents or records, pursuant thereto, the director may apply to the first circuit court setting forth such disobedience to process or refusal to answer, and such court or judge shall cite such person to appear before such court or judge to answer such questions or to produce such books, papers, documents, or records, and upon such person's refusal to do so, commit such person to jail until such person testifies but not for a longer period than 60

days. Notwithstanding the serving of the term of commitment by any person, the director may proceed in all respects as if the witness had not previously been called upon to testify. Witnesses (other than the taxpayer or the taxpayer's officers, directors, agents and employees) shall be allowed their fees and mileage as in cases in the circuit courts to be paid on vouchers of the city, from any moneys available for expenses of the director. (Sec. 8-1.4, R.O. 1978 (1983 Ed.))

Sec. 8-1.6 Timely mailing treated as timely filing and paying.

- (a) General Rule. Any report, claim, tax return, statement or other document required or authorized to be filed with or any payment made to the city which is:
 - (1) Transmitted through the United States mail, shall be deemed filed and received by the city on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it.
 - (2) Mailed but not received by the city or where received and the cancellation mark is illegible, erroneous or omitted, shall be deemed filed and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement, remittance or other document was deposited in the United States mail on or before the date due for filing; and in cases of the nonreceipt of a report, tax return, statement, remittance or other document required by law to be filed, the sender files with the city a duplicate within 30 days after written notification is given to the sender by the city of its nonreceipt of the report, tax return, statement, remittance or other document.
- (b) Registered Mail, Certified Mail, Certificate of Mailing. If any report, claim, tax return, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of the registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was delivered to the director or department of finance, and the date of registration, certification, or certificate shall be deemed the postmarked date.

(Sec. 8-1.5, R.O. 1978 (1983 Ed.))

Sec. 8-1.7 Tax collection--General duties, powers of director.

The director shall collect all taxes under this chapter according to the assessments and shall be liable and responsible for the full amount of the taxes assessed, unless the director shall under oath account for the noncollection of the same, or shall be released from accountability as provided in Section 8-1.9. The corporation counsel shall assist the director in the collection of all taxes under this chapter. (Sec. 8-1.6, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 8-1.8 District court judges--Misdemeanors and actions for tax collections.

Except as otherwise provided in this chapter, the district court judges for the first circuit court for the State of Hawaii as authorized in HRS Section 231-12, shall have jurisdiction to try misdemeanors arising under this chapter and all complaints for the violation of this chapter and to impose any of the penalties therein prescribed and shall also have the jurisdiction to hear and determine all civil actions and proceedings for the collection and enforcement of collection and payment of all taxes assessed thereunder, and all actions or judgments obtained in tax actions and proceedings, notwithstanding the amount claimed. (Sec. 8-1.7, R.O. 1978 (1983 Ed.))

Sec. 8-1.9 Director--Collection, records of delinquent taxes, uncollectible delinquent taxes.

- (a) The director shall be responsible for the collection and general administration of all delinquent taxes. The director shall duly and accurately account for all delinquent taxes collected.
- (b) The director of finance shall prepare and maintain a complete record, open to public inspection, of the amounts of taxes assessed which have become delinquent with the name of the delinquent taxpayer in each case, but it shall not be necessary to periodically compute on the records the amount of penalties and interest upon delinquent taxes.
- (c) The director may from time to time prepare lists of all taxes delinquent which in the director's judgment are uncollectible. Such taxes as the director finds to be uncollectible shall be entered in a special record and be deleted from the other books kept by the director, and the director shall thereupon be released from any further accountability for their collection; provided, that no account shall be so deleted until it shall have been delinquent for at least two years. Any items so deleted may be transferred back to the delinquent tax roll if the director finds that the alleged facts as previously presented to the director were not true, or that such items are in fact collectible. (Sec. 8-1.8, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 8-1.10 Legal representative.

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The corporation counsel or the prosecuting attorney shall assign one of such persons' deputies as attorney and legal advisor and representative of the director. The corporation counsel or the prosecuting attorney may proceed to enforce payment of any delinquent taxes by any means provided by law. Any legal proceedings may be instituted in the name of the director or the deputy director. (Sec. 8-1.9, R.O. 1978 (1983 Ed.))

Sec. 8-1.11 Abstracts of registered conveyances, copies of corporation exhibits furnished to director.

The director may request abstracts of titles. For the purpose of assisting the director in arriving at a correct valuation of the property within each district, the registrar of conveyances, or any other agency so requested by the department, shall furnish to the department, monthly, quarterly or as otherwise as required by the department, an abstract of the conveyances of, or other documents affecting title to, or assessment of, real property in each district, which have been entered for record at the bureau of conveyances, executed, or filed, as the case may be, during the period covered by such abstract. The director of regulatory agencies shall each year furnish the department as requested, copies of the annual corporation exhibits of any or all corporations owning real property in any district or any information contained in such exhibits. (Sec. 8-1.10, R.O. 1978 (1983 Ed.))

Sec. 8-1.12 Notices--How given.

Unless otherwise provided, every notice, the giving of which by the director is required or authorized, shall be deemed to have been given on the date when the notice was mailed properly addressed to the addressee at the addressee's last known address or place of business. (Sec. 8-1.15, R.O. 1978 (1983 Ed.))

Sec. 8-1.13 Federal or other tax officials permitted to inspect returns--Reciprocal provisions.

Notwithstanding the provisions of any law making it unlawful for any person, officer or employee of the city to make known information imparted by any tax return or permit any tax return to be seen or examined by any person, it shall be lawful to permit a duly accredited tax official of the United States or of any state or territory or the multi-state tax commission to inspect any tax return of any taxpayer, or to furnish to such official, commission, or the authorized representative thereof an abstract of the return or supply such person with information concerning any item contained in the return or disclosed by the report of any investigation of the return or of the subject matter of the return for tax purposes only. The multi-state tax commission may make such information available to a duly accredited tax official of the United States or to a duly accredited tax official of any state or territory, or the authorized representative thereof, for tax purposes only. (Sec. 8-1.16, R.O. 1978 (1983 Ed.))

Sec. 8-1.14 Records - public and confidential.

- (a) Except as provided in subsection (b), all maps and records compiled, made, obtained or received by the director or any of the director's subordinates, shall be public records, and in case of the death, removal or resignation of any such officers, shall immediately pass to the care and custody of their respective successors. The information and all maps and records connected with the assessment and collection of taxes under this chapter shall, during business hours, be open to the inspection of the public.
- (b) Real Property tax records stamped confidential and provided in a form separable from public tax records by a taxpayer containing trade secrets or confidential commercial or financial information of a taxpayer shall not be open to inspection by the public including, but not limited to:
 - (1) Lease agreements not involving the use of government land;
 - (2) Income statements; and
 - (3) Income and general excise tax statements.
- (c) Nothing in subsection (b) shall be construed to preclude the city from using the records enumerated in subsection (b) in any proceeding before a board of review or a court in any appeal brought by a taxpayer. (Sec. 8-1.17, R.O. 1978 (1983 Ed.), Am. Ord 01-06)

Sec. 8-1.15 Tax records as evidence.

In respect of any tax imposed or assessed under this chapter, the administration of which is within the scope of the director's duties and except as otherwise specifically provided in the law imposing the tax, the notices of assessments, records of assessments, and lists or other records of payments and amounts unpaid prepared by or under the authority of the director, or copies thereof, shall be prima facie proof of the assessments of the property or person assessed, the amount due and unpaid, and the delinquency in payment and that all requirements of law in relation thereto have been complied with. (Sec. 8-1.18, R.O. 1978 (1983 Ed.))

Sec. 8-1.16 Due date on Saturday, Sunday or holiday.

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When the due date for any remittance or document required by any ordinance imposing a tax falls on a Saturday, Sunday or legal holiday, the remittance or document shall not be due until the next succeeding day which is not a Saturday, Sunday or legal holiday. (Sec. 8-1.19, R.O. 1978 (1983 Ed.))

Sec. 8-1.17 Changes in assessment lists.

Except as specifically provided in this chapter, no changes in, additions to or deductions from, the real property tax assessments on the assessment lists prepared as provided in Section 8-2.2 shall be made except to add thereto property or assessments which may have been omitted therefrom, or to deduct therefrom adjustments on account of duplicate assessments and clerical errors, such as transposition in figures, typographical errors and errors in calculation. (Sec. 8-1.20, R.O. 1978 (1983 Ed.))

Sec. 8-1.18 Adjustments and refunds.

(a) This subsection shall apply to taxes assessed and collected under this chapter.

- (1) In the event of adjustments on account of duplicate assessments and clerical errors, such as transposition in figures, typographical errors and errors in calculations, the adjustments may be entered upon the records although the full amount appearing on the records prior to such adjustment has been paid.
- (2) There may be refunded in the manner provided in subsection (b) of this section any amount collected in excess of the amount appearing on the records as adjusted, or any amount constituting a duplication of payment in whole or in part.
- (3) Whenever any real property is deemed by the director to be exempt from taxation under Section 8-10.20, if there has been paid prior to the effective date of the exemption any real property taxes applicable to the period following the effective date of the exemption, there shall be refunded to the nonprofit or limited distribution mortgagor owning the property in the manner provided in subsection (b) all amounts representing the real property taxes which have been paid on account of the property and attributable to the period following the effective date of the exemption.
- (4) No such adjustment shall be entered on the records except within five years after the end of the tax year in which the amount to be adjusted was due and payable, unless a written application for the adjustment has been filed within such period.

(b) This subsection shall apply to all real property taxes.

- (1) Payment of all refunds and adjustments shall be made out of the real property tax refund account in the real property tax trust fund hereinafter created. All refunds and adjustments shall be paid by voucher approved by the director, setting forth the details of each transaction, provided that if the person entitled to the refund or adjustment is the current owner of the property, the refund or adjustment shall be first applied to satisfy any interest, then penalties, then delinquent taxes, due for the property, and if there are no delinquent taxes due then as a credit against future taxes due for the property, unless the city is in receipt of a written request from the current owner for payment by voucher.
- (2) There is created and established a fund known as the real property tax trust fund to be used for the purpose of making refunds and adjustments of taxes collected under this chapter. The director may, from time to time, deposit taxes collected under this chapter to the credit of real property tax refund account in the real property tax trust fund so that there may be maintained at all times an amount from which refunds may be paid.

(Sec. 8-1.21, R.O. 1978 (1983 Ed.), Am. Ord. 00-52, 05-030, 05-41)

Sec. 8-1.19 Partial payment of taxes.

Whenever a taxpayer makes a partial payment of a particular assessment of taxes, the amount received by the director shall first be credited to interest, then to penalties, and then to principal. (Sec. 8-1.22, R.O. 1978 (1983 Ed.))

Sec. 8-1.20 Abetting misdemeanor.

All persons wilfully aiding, abetting or assisting in any manner whatsoever any person to commit any act constituted a misdemeanor by this chapter, shall be deemed guilty of a misdemeanor. (Sec. 8-1.24, R.O. 1978 (1983 Ed.))

Sec. 8-1.21 Neglect of duty--Misdemeanor.

Any officer or employee of the department of finance, any person duly authorized by the director, or any police officer, on whom duties are imposed under this chapter, who wilfully fails or refuses or neglects to perform faithfully any duty or duties of such person required by this chapter, shall be deemed guilty of a misdemeanor. (Sec. 8-1.25, R.O. 1978 (1983 Ed.))

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Sec. 8-1.22 Penalty for misdemeanors.

Any person convicted of any misdemeanor under this chapter, for which no punishment is otherwise prescribed, shall be fined not more than \$500.00 or (if a natural person) imprisoned for not more than one year or both. (Sec. 8-1.26, R.O. 1978 (1983 Ed.))

Article 2. Notice of Assessments--Assessment Lists

Sections:

8-2.1 Notice of assessments--Addresses of persons entitled to notice.

8-2.2 Assessment lists.

8-2.3 Informalities or mistakes in names or notices not to invalidate assessments.

Sec. 8-2.1 Notice of assessments--Addresses of persons entitled to notice.

- (a) On or before December 15th preceding the tax year, the director shall give notice of the assessment for the tax year against each known owner, by personal delivery to the owner or by mailing to the owner on or before such date postage prepaid and addressed to the owner at the owner's last known place of residence or address a written notice identifying the property involved by the tax key and the general class established in accordance with Section 8-7.1(c) and setting forth the valuation placed upon the real property, determined pursuant to Section 8-7.1(a), the exemption, if any, allowed or denied, as the case may be, and the net taxable value of the real property. The general class of the property shall be set forth in clear and descriptive language as used in Section 8-7.1(c) (1) without abbreviation and without reference to a code of any kind on the notice of assessment.
- (b) In addition to the foregoing, the director shall, in each year, give notice of the assessments for the upcoming tax year by public notice (by publication thereof at least three times on different days prior to December 31st of each year in a newspaper of general circulation, published in the English language) of a time when (which shall be not less than a period of 10 days prior to December 31st preceding the tax year) and of a place where the records of taxable properties maintained for the district may be inspected by any person for the purpose of enabling such person to ascertain what assessments have been made against such person or such person's property and to confer with the director so that any errors may be corrected before the filing of the assessment list.
- (c) On or before December 15 preceding the tax year, the director of finance shall notify by mail each known owner whose property has been assigned a different general class from the general class assigned the previous tax year, that the property has been reclassified for property tax assessment purposes for the ensuing tax year. Such notification shall state the property's general class immediately prior to the change, the new general class, and the effective date of the new general class.
- (d) The notice of assessment required in subsection (a) shall include a return-by mail portion for a taxpayer to voluntarily indicate that the taxpayer wishes to pay an additional amount for natural resource land conservation purposes. The taxpayer shall be allowed to enter any amount exceeding \$1.00. The taxpayer shall remit the amount entered, together with the return-by-mail portion, to the city. The amount shall not be deemed to be an accrued tax liability of the taxpayer. Failure of the taxpayer to remit the amount entered shall not be deemed to be a real property tax delinquency. The director shall deposit the proceeds of payments made pursuant to this subsection into an appropriate fund which shall be used exclusively for the purpose of purchasing or otherwise acquiring fee titles, easements, or other property entitlements of natural resource lands in the city.

(Sec. 8-2.1, R. O. 1978 (1983 Ed.); Am. Ord. 92-20, 93-95, 96-15, 02-45, 05-003)

Sec. 8-2.2 Assessment lists.

On or before January 31st preceding the tax year, the director shall have prepared from the records of taxable properties a list, in duplicate, of all assessments made, which list shall be signed and sworn to by the person preparing it. The assessment list shall identify the property assessed by its tax key and shall set forth the general class of the property established in accordance with Section 8-7.1(c), the valuation of the real property, the amount of exemption allowed on the real property, and the net taxable value of the real property. The assessment list shall be the lists in accordance with which taxes shall be collected, subject only to change made by any court or other tribunal having jurisdiction, where appeals from assessments have been duly taken and prosecuted to final determination, and subject to Section 8-1.17. There shall be noted upon such lists all appeals taken pursuant to Section 8-12.1 and the amount involved in each case. The original of the assessment lists shall be retained by the person preparing it, and one copy shall be held by the city clerk.

(Sec. 8-2.2, R.O. 1978 (1983 Ed.); Am. Ord. 92-20, 96-15, 97-55, 02-45)

Sec. 8-2.3 Informalities or mistakes in names or notices not to invalidate assessments.

No assessment or act relating to the assessment or collection of taxes under this chapter shall be illegal or invalidate such assessment, levy, or collection on account of mere informality, nor because the same was not

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completed within the time required by law, nor, if the notice by publication provided for by Section 8-2.1 has been given, on account of a mistake in the name of the owner or supposed owner of the property assessed, or failure to name the owner, or failure to give the notice of assessment by personal delivery or mail provided for by Section 8-2.1. (Sec. 8-2.3, R.O. 1978 (1983 Ed.))

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Article 3. Tax Bills, Payments and Penalties

Sections:

- 8-3.1 Tax rolls--Tax bills.
- 8-3.2 Taxes--Due when--Installment payments--Billing and delinquent dates.
- 8-3.3 Penalty for delinquency.
- 8-3.4 Assessment of unreturned or omitted property--Review--Penalty.
- 8-3.5 Reassessments.

Sec. 8-3.1 Tax rolls--Tax bills.

- (a) The director shall prepare tax rolls from the assessment lists provided for by Section 8-2.2, showing thereon, in each case, names and addresses of the assessed and the amount of taxes which shall be not less than \$100.00 as provided in Section 8-11.1(g).
 - (b) The director shall mail, postage prepaid, or deliver, each year on or before the billing dates as provided for by Section 8-3.2, to all known persons assessed for real property taxes for such year, respectively, or to their agents, tax bills demanding payment of taxes due from each such person respectively, but no person shall be excused from the payment of any tax or delinquent penalties thereon by reason of failure on such person's part to receive, or failure on the part of the director so to mail or deliver such bill. The bill, if mailed, shall be addressed to the person concerned at such person's last known address or place of residence. Whenever any bill covers taxes for any real property owned, as joint tenants or as tenants in common or otherwise, by more than one person, the bill may be sent to any one co-owner and upon written request shall be sent to each known co-owner but shall, in any event, demand the full amount of the taxes due upon such real property.
- (Sec. 8-3.1, R.O. 1978 (1983 Ed.); Am. Ord. 92-124)

Sec. 8-3.2 Taxes--Due when--Installment payments--Billing and delinquent dates.

All real property taxes shall be due and payable on and after July 1st of each tax year and the payment thereof shall be determined in the following manner:

- (a) All known persons assessed for real property taxes shall be billed not later than the billing date designated in the schedule listed herein; subject however, to the limitations heretofore provided in Section 8-3.1. Each taxpayer shall pay the real property taxes due from such person for the year in which the taxes are assessed, in two equal installments on or before the dates designated in the following schedule:

Fiscal Year Schedule		
(Billing Date)	(1st Payment)	(2nd Payment)
July 20	August 20	February 20

- (b) All such taxes due on the first payment date of such year from each taxpayer, which remain unpaid after the date, shall thereupon become delinquent, and the balance of such taxes due on the second payment date of such year from each taxpayer, which remain unpaid after the date, shall thereupon become delinquent.

(Sec. 8-3.2, R.O. 1978 (1983 Ed.))

Sec. 8-3.3 Penalty for delinquency.

- (a) There shall be added to the amount of all delinquent taxes, a penalty of up to 10 percent of such delinquent taxes as determined by the director, which penalty shall be and become a part of the tax and be collected as a part thereof.
- (b) All delinquent taxes and penalties shall bear interest at the rate of one percent for each month or fraction thereof until paid, beginning with the first calendar month following the calendar month designated for payment in Section 8-3.2. The interest shall be and become a part of the tax and be collected as a part hereof.
- (c) No taxpayer shall be exempt from delinquent penalties by reason of having made an appeal on such taxpayer's assessment, but the tax paid, covered by an appeal duly taken, shall be held in a trust account as provided in Section 8-12.12.

(Sec. 8-3.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 89-147)

Sec. 8-3.4 Assessment of unreturned or omitted property--Review--Penalty.

- (a) If, when returns are required under this chapter, any person refuses or neglects to make such returns, or declines to authenticate the accuracy thereof, or omits any property from a return, the director shall make the assessment according to the best information available and shall add to the assessment or tax lists for the

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year or years during which it was not taxed, the property unreturned or omitted. Likewise, if for any other reason any real property has been omitted from the assessment lists for any year or years, the director shall add to the lists the omitted property. Notice of the action shall be given the owner, if known, within 10 days after the assessment or addition, by mailing the same addressed to the owner at last known place of residence. Any owner desiring a review of the assessment or the addition may appeal to the board by filing with the director a written notice thereof in the manner prescribed in Section 8-12.9 at any time within 30 days after the date of mailing such notice, or may appeal to the tax appeal court by filing written notice of appeal with, and paying the necessary costs to, such court within the period and in the manner prescribed in Section 8-12.8.

- (b) A penalty of 10 percent shall be added by the director to the amount of any assessment made by the director pursuant to this section, which penalty shall be and become a part of the assessment so made; but no such penalty shall be imposed where the failure to assess or tax the property was not due to the refusal or neglect of the owner to return the property or authenticate the accuracy of the owner's return.
- (c) For the purpose of determining the date of delinquency of taxes pursuant to assessments under this section, such taxes shall be deemed delinquent if not paid within 30 days after the date of mailing of notice of assessment, or if assessed for the current assessment year, within 30 days after the date of mailing the notice or on or before the next installment payment date, if any, for such taxes, whichever is later.

(Sec. 8-3.4, R.O. 1978 (1983 Ed.))

Sec. 8-3.5 Reassessments.

Any property assessed to a person or persons who did not have the record title upon October 1st preceding the tax year in which the assessment was made, may be, and in any case where the attempted assessment of property is void or so defective as to create no real property tax lien on the property and the taxes have not been fully collected, the property shall be assessed as omitted property in the manner provided in Section 8-3.4. (Sec. 8-3.5, R.O. 1978 (1983 Ed.); Am. Ord. 96-15)

Article 4. Remissions

Sections:

8-4.1 Remission of taxes on acquisition by government.

8-4.2 Remission of taxes in cases of certain disasters.

8-4.3 Remission of penalties and interest due for National Guard and military reserve personnel.

Sec. 8-4.1 Remission of taxes on acquisition by government.

- (a) Whenever any real property is acquired for public purposes by the United States, the state or the city, and whenever any government lease or other tenancy shall terminate, the director is authorized to remit the taxes due thereon for the balance of the taxation period or year from and after the date of acquisition of the property, or the termination of the government lease or other tenancy, as the case may be.
- (b) In case the state or the city takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the state or the city, taxes are authorized to be remitted as provided in HRS Sections 101-35 to 101-39, subject to HRS Section 101-39(1).
- (c) In case the owner of real property grants to the state or the city a right of entry with respect to such real property and the state or the city enters into possession under the authority of the right of entry with intention to acquire the fee simple estate therein and to devote the real property to public use, the state or the city shall certify to the director the date upon which it took possession, and upon receipt of the certificate, the director is authorized to remit the real property tax on the parcel of land or portion of a parcel of land so coming into the possession of the state or the city for the balance of the taxation period which is subsequent to the date of possession.
- (d) In case the United States takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land, taxes are authorized to be remitted for the balance of the taxation period or year after such taking, as provided in this paragraph. The remission shall be allowed conditionally upon the presentation to the director of a written notice and agreement, signed by the person, or one or more of the persons, owning the land, stating the date of such taking of possession by the United States, and agreeing that out of the first funds received by such owner or owners from such condemnation there shall be paid sufficient moneys to discharge the lien for any real property taxes existing upon the land prorated up to and including the date of such taking possession of the property; provided, that the notice may be accompanied by payment of the prorated amount of taxes in lieu of such agreement. HRS Section 101-39 is made applicable to such land and the owner or owners thereof and to the conditional remission authorized by this paragraph. It is further provided that in the event the prorated taxes up to the time of such taking possession shall not be paid by the owner or by one or more of the owners of the land within 10 days after receipt by such owner or owners of the compensation for the condemnation, or within such additional time as shall be allowed by the director, then the conditional remission of taxes shall be void, and such owner or owners shall be liable for all taxes, penalties and interest which would have accrued had no such conditional remission been allowed.

(Sec. 8-4.1, R.O. 1978 (1983 Ed.))

Sec. 8-4.2 Remission of taxes in cases of natural disasters.

- (a) The director shall remit taxes due or paid for real property damaged or destroyed as a result of natural disaster, where the mayor has declared a natural disaster for purposes of real property tax relief, hereunder. Remissions shall be granted:
 - (1) Of taxes on the damaged or destroyed real property for the tax year in which the natural disaster occurred; and
 - (2) To the extent and in the manner set forth in this section.
- (b) The director shall determine whether the real property was wholly destroyed or was partially destroyed or damaged from the natural disaster. If the real property was partially destroyed or damaged, the director shall determine what percentage of the value of the whole property was destroyed or otherwise lost by reason of the natural disaster.
- (c) If the real property was wholly destroyed, the amount remitted shall be the lower of the following, but subject to subsection (e) of this section:
 - (1) The total tax on the property for the tax year in which the natural disaster occurred; or
 - (2) \$25,000.00.
- (d) If the real property was partially destroyed or damaged, the amount remitted shall be the lower of the following, but subject to subsection (e) of this section:
 - (1) The amount derived by multiplying the total tax on the property for the tax year by the percentage of the value destroyed or otherwise lost, determined as provided in subsection (b) of this section; or
 - (2) \$25,000.00.

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- (e) The minimum tax of Section 8-11.1(g) shall apply to real property, the tax on which is remitted under this section. In no case shall the amount remitted for a parcel of real property under this section cause the tax on that parcel to be less than the minimum.
 - (f) Application for a remission of taxes pursuant to this section shall be filed with the director on or before June 30th of the tax year involved, or within 60 days after the declaration by the mayor of the natural disaster, whichever is the later. Any amount of taxes authorized to be remitted by this section, which has been paid, shall be refunded upon proper application therefor out of appropriated general funds.
 - (g) For purposes of this section, the term "natural disaster" shall mean any disaster caused by seismic or tidal wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, or flood waters.
- (Sec. 8-4.2, R.O. 1978 (1983 Ed.); Am. Ord. 92-38, 97-56)

Sec. 8-4.3 Remission of penalties and interest due for National Guard and military reserve personnel.

The director shall remit the amount of penalties or interest added under this chapter to any tax, for which the following applies:

- (a) The property owner is a member of the National Guard or of a reserve component of the armed forces of the United States serving on active duty pursuant to deployment for a war or national emergency declared in accordance with federal law;
- (b) The taxes owed become due and payable during the period the property owner serves on active duty;
- (c) The property owner has provided proof of active duty status to the director; and
- (d) The taxes due and owing on the owner's property are paid no later than 180 days from the date the property owner's active duty is terminated.

The director shall adopt rules having the force and effect of law for the implementation, administration, and enforcement of this section.

As used in this section:

"Active duty" means full-time duty in the uniformed services.

"National Guard" means the Army National Guard or the Air Force National Guard.

"Reserve component of the armed forces of the United States" means the air force reserve, army reserve, coast guard reserve, marine corps reserve, and naval reserve.

(Am. Ord. 04-44)

Article 5. Liens--Foreclosures

Sections:

- 8-5.1 Tax liens--Co-owners' rights--Foreclosure, limitation.**
- 8-5.2 Tax liens--Foreclosure without suit, notice.**
- 8-5.3 Tax liens--Registered land.**
- 8-5.4 Tax liens--Notice--Form.**
- 8-5.5 Tax liens--Postponement of sale.**
- 8-5.6 Tax liens--Tax deed--Redemption.**
- 8-5.7 Tax liens--Costs.**
- 8-5.8 Tax deed as evidence.**
- 8-5.9 Disposition of surplus moneys.**
- 8-5.10 Tax debt due the county--Lien.**
- 8-5.11 Enforcement of payment by assumpsit action or by levy and distraint upon all property and rights to property.**

Sec. 8-5.1 Tax liens--Co-owners' rights--Foreclosure, limitation.

- (a) Every tax due upon real property, as defined by Section 8-1.2, shall be a paramount lien upon the property assessed, which lien shall attach as of July 1st in each tax year and shall continue for six years. If proceedings for the enforcement or foreclosure of the lien are brought within the applicable period hereinabove designated, the lien shall continue until the termination of said proceedings or the completion of such sale.
- (b) In case of cotenancy, if one cotenant pays, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties and other additions to the tax, due and delinquent at the time of payment, the cotenant shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within 90 days after the payment so made by the cotenant, a sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify it, the tax year or years, and the name of the cotenant upon whose interest such lien is asserted. When a notice of such tax lien is recorded by a cotenant, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. In case the land affected is registered in the land court, the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in the registrar's capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.
- (c) The cotenant's lien shall have the same priority as the lien or liens of the government for the taxes paid by the cotenant, and may be enforced by an action in the nature of a suit in equity. The lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if such proceedings are begun, and notice of the pendency thereof is recorded or filed and registered as provided by law, within the period.
- (d) The director or the director's subordinate, in case of a government lien, and the creditor cotenant, in a case of a cotenant's lien, shall, at the expense of the debtor, upon payment of the amount of the lien, execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or cotenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved, and the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, shall, in the case of a cotenant's lien which contains the reference to the book and page of the original lien, be entered in the general indexes of the bureau of conveyances, and if a notation of the original notice was made on any land court certificate of title, the filing of such satisfaction shall also be noted on the certificate.
- (e) This section as to cotenancy shall apply as well, in any case of ownership by more than one assessable person.
- (f) Upon enforcement or foreclosure by the government in any manner whatsoever, of any such real property tax lien, all taxes of whatsoever nature and howsoever accruing, due at the time of the foreclosure sale from the taxpayer against whose property such tax lien is so enforced or foreclosed, shall be satisfied as far as possible out of the proceeds of the sale remaining after payment of (1) the costs and expenses of the enforcement and foreclosure including a title search, if any, (2) the amount of subsisting real property tax liens, and (3) the amount of any recorded liens against the property, in the order of their priority.
- (g) The liens may be enforced by action of the director in the circuit court of the first circuit, and the proceedings had before the circuit court shall be conducted in the same manner and form as ordinary foreclosure proceedings as provided for in HRS Chapter 667. If the owners or claimants of the property against which a lien is sought to be foreclosed, are at the time out of the city or cannot be served within the city, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the

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court, and it shall in like manner appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint, or that such owners or claimants are necessary or proper parties to the action, the director may request the court that service be made in the manner provided by HRS Sections 634-23 through 634-29.

- (h) In any such case, it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien for taxes in the manner herein provided.

(Sec. 8-5.1, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 8-5.2 Tax liens--Foreclosure without suit, notice.

All real property on which a lien for taxes exists may be sold by way of foreclosure without suit by the director, and in case any lien, or any part thereof, has existed thereon for three years, shall be sold by the director at public auction to the highest bidder, for cash, to satisfy the lien, together with all interest, penalties, costs and expenses due or incurred on account of the tax, lien and sale, the surplus, if any, to be rendered to the person thereto entitled. The sale shall be held at any public place proper for sales on execution, after notice published at least once a week for at least four successive weeks immediately prior thereto in any newspaper with a general circulation of at least 60,000 published in the state and any newspaper of general circulation published and distributed in the county. If the address of the owner is known or can be ascertained by due diligence, including an abstract of title or title search, the director shall send to each owner notice of the proposed sale by registered mail, with request for return receipt. If the address of the owner is unknown, the director shall send a notice to the owner at the owner's last known address as shown on the records of the department of finance. The notice shall be deposited in the mail at least 45 days prior to the date set for the sale. The notice shall also be posted for a like period in at least three conspicuous public places within the city, and if the land is improved, one of the three postings shall be on the land. (Sec. 8-5.2, R.O. 1978 (1983 Ed.))

Sec. 8-5.3 Tax liens--Registered land.

If the land has been registered in the land court, the director shall also send by registered mail a notice of the proposed sale to any person holding a mortgage or other lien registered in the office of the assistant registrar of the land court. The notice shall be sent to any such person at such person's last address as shown by the records in the office of the registrar, and shall be deposited in the mail at least 45 days prior to the date set for the sale. (Sec. 8-5.3, R.O. 1978 (1983 Ed.))

Sec. 8-5.4 Tax liens--Notice--Form.

The notice of sale shall contain the names of the persons assessed, the names of the present owners (so far as shown by the records of the director and the records, if any, in the office of the assistant registrar of the land court) the character and amount of the tax, and the tax year or years, with interest, penalties, costs, expenses and charges accrued or to accrue to the date appointed for the sale, a brief description of the property to be sold, and the time and place of sale, and shall warn the persons assessed, and all persons having or claiming to have any mortgage or other lien thereon or any legal or equitable right, title or other interest in the property, that unless the tax, with all interest, penalties, costs, expenses, and charges accrued to the date of payment, is paid before the time of sale appointed, the property advertised for sale will be sold as advertised. The director may include in one advertisement of notice of sale notice of foreclosure upon more than one parcel of real property, whether or not owned by the same person and whether or not the liens are for the same tax year or years. (Sec. 8-5.4, R.O. 1978 (1983 Ed.))

Sec. 8-5.5 Tax liens--Postponement of sale.

If at the time appointed for the sale, the director shall deem it expedient and for the interest of all persons concerned therein to postpone the sale of any property or properties for want of purchasers, or for other sufficient cause, the director may postpone it from time to time, until the sale shall be completed, giving notice of every such adjournment by a public declaration thereof at the time and place last appointed for the sale; provided, that the sale of any property may be abandoned at the time first appointed or any adjourned date, if no proper bid is received sufficient to satisfy the lien, together with all interest, penalties, costs, expenses, and charges. (Sec. 8-5.5, R.O. 1978 (1983 Ed.))

Sec. 8-5.6 Tax liens--Tax deed--Redemption.

The director or the director's subordinate shall, on payment of the purchase price, make, execute and deliver all proper conveyances necessary in the premises and the delivery of the conveyances shall vest in the purchaser the title to the property sold; provided, that the deed to the premises shall be recorded within 60 days after the sale; provided, further, that the taxpayer may redeem the property sold by payment to the purchaser at the sale, within one year from the date thereof, or if the deed shall not have been recorded within 60 days after the sale, then within one year from the date of recording of the deed, of the amount paid by the purchaser, together with all costs and expenses which the purchaser was required to pay, including the fee for recording the deed, and in addition thereto, interest on such amount at the rate of 12 percent a year, but in a case of redemption more than one year

after the date of sale by reason of extension of the redemption period on account of late recording of the tax deed, interest shall not be added for the extended redemption period. (Sec. 8-5.6, R.O. 1978 (1983 Ed.))

Sec. 8-5.7 Tax liens--Costs.

The director by rules or regulations may prescribe a schedule of costs, expenses and charges and the manner in which they shall be apportioned between the various properties offered for sale and the time at which each cost, expense or charge shall be deemed to accrue; and such costs, expenses and charges shall be added to and become a part of the lien on the property for the last year involved in the sale or proposed sale, the tax for which is delinquent. Such costs, expenses and charges may include provision for the making of and the securing of certificates of searches of any records to furnish information to be used in or in connection with the notice of sale or tax deed, or in any case where the director shall deem such advisable; provided, that the director shall not be required to make such searches or to cause them to be made except as provided by Section 8-5.3 with respect to mortgages or other liens registered in the office of the assistant registrar of the land court. (Sec. 8-5.7, R.O. 1978 (1983 Ed.))

Sec. 8-5.8 Tax deed as evidence.

The tax deed referred to in Section 8-5.6 is prima facie evidence that:

- (a) The property described by the deed was duly assessed for taxes in the years stated in the deed and to the persons therein named.
- (b) The property described by the deed was subject on the date of the sale to a lien or liens for real property taxes, penalties and interest in the amount stated in the deed, for the tax years therein stated, and that the taxes, penalties and interest were due and unpaid on the date of sale.
- (c) Costs, expenses and charges due or incurred on account of the taxes, liens and sale had accrued at the date of the sale in the amount stated in the deed.
- (d) The person who executed the deed was the proper officer.
- (e) At a proper time and place the property was sold at public auction as prescribed by law, and by the proper officer.
- (f) The sale was made upon full compliance with Sections 8-5.2 to 8-5.7 and all laws relating thereto, and after giving notice as required by law.
- (g) The grantee named in the deed was the person entitled to receive the conveyance.

(Sec. 8-5.8, R.O. 1978 (1983 Ed.))

Sec. 8-5.9 Disposition of surplus moneys.

- (a) The director shall pay from the surplus all taxes, including interest and penalties, of whatsoever nature and howsoever accruing, as provided in Section 8-5.1, and further the director may pay from the surplus the cost of a search of any records where such search is deemed advisable by the director to ascertain the person or persons entitled to the surplus; provided, nothing herein contained shall be construed to require the director to make or cause any such search to be made. If the director is in doubt as to the person or persons entitled to the balance of the fund, the director may refuse to distribute the surplus and any claimant may sue the director in the first circuit court. The director may require the claimants to interplead, in which event the director shall state the names of all claimants known to the director, and shall cause them to be made parties to the action. If in the director's opinion there may be other claimants who are unknown, the director may apply for an order or orders joining all persons unknown having or claiming to have any legal or equitable right, title, or interest in the moneys or any part thereof or any lien or other claim with respect thereto.
- (b) Any orders of the court or summons in the matter may be served as provided by law or the rules of court, and all persons having any interest in the moneys who are known, including the guardians of such of them as are under legal age or under any other legal disability (and if any one or more of them is under legal age or under other legal disability and without a guardian, the court shall appoint a guardian ad litem to represent them therein) shall have notice of the action by personal service upon them. All persons having any interest in the moneys whose names are unknown or who if known do not reside within the state or for any reason cannot be served with process within the state shall have notice of the action as provided by HRS Sections 634-23 to 634-29, except that any publication of summons shall be in at least one newspaper of general circulation published in the state and having a general circulation in the city, and the form of notice to be published shall provide a brief description of the property which was sold.
- (c) All expenses incurred by the director shall be met out of the surplus moneys realized from the sale.

(Sec. 8-5.9, R.O. 1978 (1983 Ed.))

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Sec. 8-5.10 Tax debt due the county--Lien.

- (a) The director may record in the bureau of conveyances, department of land and natural resources, State of Hawaii, or in the case of a lien on a motor vehicle to file with the city director of finance, a certificate setting forth the amount of taxes due and unpaid, which have been assessed or as to which a notice of proposed assessment has been issued. The certificate shall identify the taxpayer, the taxpayer's last known address, and the tax or taxes involved. The certificate shall include such further information, if any, as may be required by HRS Chapter 501, to procure a lien on registered land. The recording or filing of the certificate creates a lien in favor of the city upon all property and rights to property, whether real or personal, belonging to any person liable for the tax. The lien for the tax, including penalties and interest thereon, arises at the time of filing by the director of the certificate of tax lien. From and after the time the lien arises, it shall be a paramount lien upon the property and rights to property against all parties. The certificate, if recorded or filed with the city director of finance shall be entered of record as provided by law, and if recorded or filed in the bureau of conveyances, department of land and natural resources, State of Hawaii, shall be recorded in the office of the registrar of conveyances. Any cost incurred in the filing of the certificate shall be a part of the lien for the tax therein set forth.
- (b) The lien imposed in subsection (a) of this section shall not be valid as against: (1) a mortgagee or purchaser of real property, or the lien of a judgment creditor upon real property, whose interest arose prior to the recording by the director of the certificate provided for herein; (2) a mortgagee or purchaser of a motor vehicle who becomes the legal owner or owner at a time when the tax lien and encumbrance record provided for by HRS Section 286-46 does not show the lien.
- (c) As to tangible personal property, possession of which is held by a person liable for tax for the purpose of sale to the public in the ordinary course of the person's business, the lien imposed in subsection (a) of this section is extinguished as to any such property sold in the ordinary course of the business by or under the direction of the person to any purchaser for valuable consideration. As to securities, negotiable instruments and money, the lien imposed in subsection (a) of this section is extinguished as to such property upon passage of title to a person without notice or knowledge of the existence of the lien, for an adequate and full consideration in money or money's worth.
- (d) The director may issue a certificate of discharge of any part of the property subject to the lien imposed by this section, upon payment in partial satisfaction of such lien, of an amount not less than the value as determined by the director of the lien on the part to be so discharged, or if the director determines that the lien on the part to be discharged has no value. Any such discharge so issued shall be conclusive evidence of the discharge of the lien as therein provided.
- (e) The lien imposed in this section may be foreclosed in a court proceeding or by distraint under Section 8-5.11.
- (f) Within the meaning of this section:
 - "Mortgagee" and "purchaser" do not mean or include any person to whom property or an interest in property is conveyed (A) as security for or in satisfaction of an antecedent or preexisting debt of a debtor who is insolvent within the meaning of the Bankruptcy Act, or (B) as trustee, assignee or agent for the benefit of one or more creditors, other than mortgage bondholders.
 - "Motor vehicle" means any self-propelled vehicle to be operated on the public highways.
 - "Real property" means and includes leasehold or other interest in real property and also any personal property sold or mortgaged with real property if affixed to the real property and described in the instrument of sale or mortgage.

(Added by Ord. 90-19)

Sec. 8-5.11 Enforcement of payment by assumpsit action or by levy and distraint upon all property and rights to property.

- (a) If any tax be unpaid when due, the director may proceed to enforce the payment of the same, with all penalties, as follows:
 - (1) By action in assumpsit, in the director's own name, on behalf of the city for the amount of taxes and costs, or if the tax is delinquent for the amount of taxes, costs, penalties and interest, in any district court of the first circuit, State of Hawaii, irrespective of the amount claimed. Execution may issue upon any judgment rendered in any such action which may be satisfied out of any real or personal property of the defendant.
 - (2) By levy upon all property and rights to property (except such property as is exempt under subsection (b)(5) of this section) belonging to such taxpayer or on which there is a lien, as the director may deem sufficient to satisfy the payment of taxes due, penalties and interest if any, and the costs and expenses of the levy.

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- (b) The following rules are applicable to the levy as provided in subsection (a)(2) of this section:
- (1) **Seizure and Sale of Property.** The term "levy" as used in this section includes the power of distraint and seizure by any means. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the director or director's representative may levy upon property or rights to property, they may seize and sell such property or rights to property (whether real or personal, tangible or intangible).
 - (2) **Successive Seizures.** Whenever any property or right to property upon which levy has been made is not sufficient to satisfy the claim of the city for which levy is made, the director or director's representative may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from such person, together with all expenses, is fully paid.
 - (3) **Surrender of Property Subject to Levy.**
 - (A) **Requirement.** Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the director or director's representative, surrender such property or rights (or discharge such obligation) to the director or director's representative, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.
 - (B) **Extent of Personal Liability.** Any person who fails or refuses to surrender property or rights of property, subject to levy, upon demand by the director or director's representative, shall thereby subject such person individually and such person's estate to liability to the city in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of 12 percent a year from the date of such levy. Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.
 - (C) **Penalty for Violation.** In addition to the personal liability imposed by subparagraph (B) of this paragraph, if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under subparagraph (B) of this paragraph. No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.
 - (D) **Effect of Honoring Levy.** Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the director or director's representative, surrenders such property or rights to property (or discharges such obligation) to the director or to the director's representative shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment.
 - (E) **Person Defined.** The term "person," as used in subparagraph (A) of this paragraph, includes an officer or employee of a corporation or a member or employee of a partnership, or a member or employee of any other type of organization, who as such officer, employee or member is under a duty to surrender the property or rights to property, or to discharge the obligation.
 - (4) **Production of Books.** If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of books or records, containing evidence or statements relating to the property or right to property subject to levy, shall, upon demand of the director or director's representative, exhibit such books or records to the director or such representative.
 - (5) **Property Exempt from Levy.** Notwithstanding any other law of the city, no property or rights to property shall be exempt from levy other than the following:
 - (A) **Wearing apparel and school books.** Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of the taxpayer's family.
 - (B) **Fuel, provisions, furniture and personal effects.** If the taxpayer is the head of a family, so much of the fuel, provisions, furniture and personal effects in the taxpayer's household and of the arms for personal use, livestock and poultry of the taxpayer, as does not exceed \$500.00 in value.
 - (C) **Books and tools of a trade, business or profession.** So many of the books and tools necessary for the trade, business or profession of the taxpayer as do not exceed in the aggregate \$250.00 in value.

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- (D) Unemployment benefits. Any amount payable to an individual with respect to such individual's unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States or the state.
 - (E) Undelivered mail. Mail, addressed to any person, which has not been delivered to the addressee.
- (6) Sale of the Seized Property.
- (A) Notice of Sale. The director shall take possession and keep the levied property until the sale. After taking possession, the director shall sell the taxpayer's interest in the property at public auction after first giving 20 days' public notice of the time and place of the sale by publication at least once in the newspaper, published in the district, or by posting the notice in at least three public places in the district where the sale is to be held.
 - (B) Assistance in Seizure and Sale. The director may require the assistance of any sheriff or authorized police officer of any county to aid in the seizure and sale of the levied property. The director may further retain the services of any person competent and qualified to aid in the sale of the levied property. Any sheriff or the person so retained by the director shall be paid a fair and reasonable fee but in no case shall the fee exceed 10 percent of the gross proceeds of the sale. Any person other than a sheriff so retained by the director to assist the director may be required to furnish bond in an amount to be determined by the director. The fees and the cost of the bond shall constitute a part of the costs and expenses of the levy.
 - (C) Time and Place of Sale. The sale shall take place within 45 days after seizure; provided, that by public announcement at the sale, or at the time and place previously set for the sale, it may be extended for not more than two weeks. The sale shall, in any event, be completed within 60 days after seizure of the property unless consent of the delinquent taxpayer is obtained for further extension of the sale.
 - (D) Manner and Conditions of Sale. Sufficient property shall be sold to pay all taxes, penalties, interest, costs and expenses. On payment of the price bid for any property sold, the delivery thereof with a bill of sale from the director shall vest the title of the property in the purchaser. No charge shall be made for the bill of sale. All surplus received upon any sale after the payment of the taxes, penalties, interest, costs and expenses, shall be returned to the owner of the property sold, and until claimed shall be deposited with the department, subject to the order of owner. Any unsold portion of the property seized may be left at the place of sale at the risk of the owner.
 - (E) Redemption of Property. If the owner of the property seized desires to retain or regain possession thereof, such owner may give a sufficient bond with surety to produce the property at the time and place of sale, or pay all taxes, penalties, interest, costs and expenses.
- (Added by Ord. 90-19)

Article 6. Rate--Levy

Sections:

- 8-6.1 Tax base and rate.**
- 8-6.2 Tax year--Time of levy and assessment.**
- 8-6.3 Assessment of property--To whom in general.**
- 8-6.4 Imposition of real property taxes on reclassification.**
- 8-6.5 Assessment of property of corporations or copartnerships.**
- 8-6.6 Fiduciaries--Liability.**
- 8-6.7 Assessment of property of unknown owners.**

Sec. 8-6.1 Tax base and rate.

Except as exempted by ordinance or as otherwise provided for, all real property shall be subject to a tax upon 100 percent of its fair market value determined in the manner provided by ordinance, at such rate as shall be determined in the manner provided in Section 8-11.1. No taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered, except as the result of a decision on an appeal as provided by law. For the purpose of this section, an exemption listed and recognized under section 8-10.23 shall be deemed an exemption granted by ordinance. (Sec. 8-6.1, R.O. 1978 (1983 Ed.); Am. Ord. 92-38, 00-64, 00-65)

Sec. 8-6.2 Tax year--Time of levy and assessment.

For real property tax purposes, "tax year" means the fiscal year beginning July 1st of each calendar year and ending June 30th of the following calendar year. Real property shall be assessed as of October 1st preceding each tax year and taxes shall be levied thereon in the manner and at the time provided in this chapter. (Sec. 8-6.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15)

Sec. 8-6.3 Assessment of property--To whom in general.

- (a) Real property shall be assessed in its entirety to the owner thereof, provided that where improved residential land has been leased for a term of 15 years or more, the real property shall be assessed in its entirety to the lessee or the lessee's successor in interest holding the land for such term under such lease and the lessee or successor in interest shall be deemed the owner of the real property in its entirety for the purpose of this chapter; provided, however, that the lease and any extension, renewal, assignment or agreement to assign the lease (1) shall have been duly entered into and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court prior to October 1st preceding the tax year for which the assessment is made, and (2) shall provide that the lessee shall pay all taxes levied on the property during the term of the lease.
- (b) "Improved residential land" as used herein means land improved with a single-family dwelling on it.
- (c) For the purposes of this chapter, life tenants, personal representatives, trustees, guardians or other fiduciaries may be, and persons holding government property under an agreement for the conveyance of the same to such persons shall be considered as owners during the time any real property is held or controlled by them as such. Lessees holding under any government lease shall be considered as owners during the time any real property is held or controlled by them as such, as more fully provided in Section 8-10.17 and further, notwithstanding any provisions to the contrary in this chapter, any tenant occupying government land, whether such occupancy has continued for a period of one year or more, as more fully provided in Section 8-10.17. Persons holding any real property under an agreement to purchase the same, shall be considered as owners during the time the real property is held or controlled by them as such; provided the agreement to purchase (1) shall have been recorded in the bureau of conveyances, and (2) shall provide that the purchasers shall pay the real property taxes levied on the property. Persons holding any real property under a lease for a term to last during the lifetime of the lessee, shall be considered as owners during the time the real property is held or controlled by them as such; provided, that the lease (1) shall have been duly entered into and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court prior to October 1st preceding the tax year for which the assessment is made, and (2) shall provide that the lessee shall pay all taxes levied on the property during the term of the lease.

(Sec. 8-6.3, R.O. 1978 (1983 Ed.); Am. Ord. 96-15)

Sec. 8-6.4 Imposition of real property taxes on reclassification.

- (a) A portion of real property taxes shall be imposed upon and paid by the owner or owners thereof when:
 - (1) The property of the owner has been leased for a term of 15 years or more;

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- (2) The classification of the property has been changed to a classification of a higher use during the life of the lease; and
 - (3) The classification to a higher use has occurred without the lessee, who occupies the property, petitioning for such higher classification.
- (b) Taxes which are imposed upon the owners of property under this section shall be paid by the owner of such property without being transferred to the lessee who occupies the property and such tax shall be the difference between the assessed valuation of the property after the classification change times the applicable tax rate less the assessed valuation of the property as it existed prior to the classification change times the applicable tax rate.
- (Sec. 8-6.4, R.O. 1978 (1983 Ed.))

Sec. 8-6.5 Assessment of property of corporations or copartnerships.

Property of a corporation or copartnership shall be assessed to it under its corporate or firm name. (Sec. 8-6.5, R.O. 1978 (1983 Ed.))

Sec. 8-6.6 Fiduciaries--Liability.

Every personal representative, trustee, guardian or other fiduciary shall be answerable as such for the performance of all such acts, matters or things as are required to be done by this chapter in respect to the assessment of the real property such person represents in such person's fiduciary capacity, and such person shall be liable as such fiduciary for the payment of taxes thereon up to the amount of the available property held by such person in such capacity, but such person shall not be personally liable. Such person may retain, out of the money or other property which such person may hold or which may come to such person in such person's fiduciary capacity, so much as may be necessary to pay the taxes or to recoup oneself for the payment thereof, or such person may recover the amount thereof paid by such person from the beneficiary to whom the property shall have been distributed. (Sec. 8-6.6, R.O. 1978 (1983 Ed.))

Sec. 8-6.7 Assessment of property of unknown owners.

The taxable property of persons unknown, or some of whom are unknown, shall be assessed to "unknown owners," or to named persons and "unknown owners," as the case may be. The taxable property of persons not having record title thereto on October 1st, preceding the tax year for which the assessment is made, may be assessed to "unknown owners," or to named persons and "unknown owners," as the case may be. Such property may be levied upon for unpaid taxes. (Sec. 8-6.7, R.O. 1978 (1983 Ed.); Am. Ord. 96-15)

Article 7. Valuations

Sections:

8-7.1 Valuation--Considerations in fixing.

8-7.2 Water tanks.

8-7.3 Dedicated lands.

8-7.4 Golf course assessment.

8-7.5 Certain lands dedicated for residential use.

Sec. 8-7.1 Valuation--Considerations in fixing.

- (a) The director of budget and fiscal services shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of real property for taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the county.
- (b) So far as practicable, records shall be compiled and kept which shall show the methods established by or under the authority of the director, for the determination of values.
- (c) (1) Land shall be classified, upon consideration of its highest and best use, into the following general classes:
 - (A) Improved residential;
 - (B) Unimproved residential;
 - (C) Apartment;
 - (D) Hotel and resort;
 - (E) Commercial;
 - (F) Industrial;
 - (G) Agricultural;
 - (H) Preservation;
 - (I) Public service; and
 - (J) Vacant agricultural
- (2) In assigning land to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, and such other factors which influence highest and best use.
Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any land classified as tree farm property under HRS Chapter 186.
- (3) When real property is subdivided into condominium units, each unit and its appertaining common interest:
 - (A) Shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as land; and
 - (B) Shall be deemed a parcel and assessed separately from other units.
- (4) Notwithstanding any provision contained in this subsection, a condominium unit which is used at any time during the assessment year as a time share unit shall be classified for the following tax year as "hotel and resort" unless:
 - (A) The unit is on property zoned as apartment, apartment mixed use, apartment precinct, or apartment mixed use precinct,
 - (B) The property on which the unit is located does not include a lobby with a clerk's desk or counter with 24-hour clerk service facilities for registration and keeping of records relating to persons using the property, and
 - (C) The unit is part of a condominium property regime established pursuant to Chapter 514A of Hawaii Revised Statutes. If the requirements of (A), (B) and (C) are met, the time share unit shall be classified as "apartment." For purposes of this paragraph, "assessment year" shall mean the one-year period beginning October 2nd of the previous calendar year and ending October 1st inclusive, of the calendar year preceding the tax year, and "time sharing" shall be as defined in Section 21-10.1.
- (5) "Improved residential" means land which is classified as residential by the director upon consideration of its highest and best use, and is property which fulfills the provisions of at least one of the following paragraphs:

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- (A) Land which has been subdivided prior to any assessment year as a lot for single- or two-family residential use in conformity with the then existing county zoning ordinances, and has been approved for sale or approved as being in conformity with all of the subdivision requirements of the city; or
 - (B) Land which is in actual single- or two-family residential use at a density of at least a single- or a two-family residential building per acre; or
 - (C) Land which is sufficiently developed with necessary land improvements to support a use density of at least a single- or two-family residential building per acre.
- (6) "Unimproved residential" means all residential class lands not classified as "improved residential."
- (7) "Vacant agricultural" means land which would otherwise be classified agriculture by the director upon major consideration of the districting established by the city in its general plan and zoning ordinance and of such other factors which influence highest and best use, but which land: (i) has no residential buildings; and (ii) is not in agricultural production.
- (8) Notwithstanding any provision contained in this subsection, all lands actually used by a public service company in its public service business shall be classified public service. For purposes of this subsection, a public service company is defined as a public utility, except airlines, motor carriers, common carriers by water, and contract carriers, where:
- (A) "Public utility" means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the state, or between points within the state, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:
- (i) Shall include any person insofar as that person owns or operates a private sewer company or sewer facility;
 - (ii) Shall include telecommunications carrier or telecommunications common carrier;
 - (iii) Shall not include any person insofar as that person owns or operates an aerial transportation enterprise;
 - (iv) Shall not include persons owning or operating taxicabs, as defined in this subsection;
 - (v) Shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the public utilities commission of the State of Hawaii finds to be inadequately serviced without regulation under this chapter;
 - (vi) Shall not include persons engaged in the business of warehousing or storage unless the public utilities commission of the State of Hawaii finds that regulation thereof is necessary in the public interest;
 - (vii) Shall not include:
 - (aa) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the state and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and
 - (bb) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the state or on luxury round-trip cruises returning to the point of departure;
 - (viii) Shall not include any person who:
 - (aa) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from nonfossil fuel sources; and
 - (bb) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;
 - (ix) Shall not include a telecommunications provider only to the extent determined by the public utilities commission of the State of Hawaii, pursuant to applicable state law.

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- (x) Shall not include any person who controls, operates, or manages plants or facilities developed pursuant to applicable state law for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose; and
- (xi) Shall not include any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:
 - (aa) The services of the facility shall be provided pursuant to a service contract between the person and a state or county agency and at least 10 per cent of the wastewater processed is used directly by the state or county which has entered into the service contract;
 - (bb) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a state or county agency;
 - (cc) The facility shall not make sales of water to residential customers;
 - (dd) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph xi, "recycled water" and "reclaimed water" mean treated wastewater that by design is intended or used for a beneficial purpose; and
 - (ee) The facility shall not be engaged, either directly or indirectly, in the processing of food wastes.
- (B) "Motor carrier" means a common carrier or contract carrier transporting freight or other property on the public highways, other than a public utility or taxicab
- (C) "Contract carrier" means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air.
- (D) "Carrier" means a person who engages in transportation, and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person oneself engages in transportation.
- (E) "Taxicab" means and includes:
 - (i) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and
 - (ii) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals shall pertain only to those motor vehicles whose operators or owners were duly licensed under any applicable provision of law or ordinance and doing business between such terminals on January 1, 1957.
- (F) "Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signalling, or control devices.
- (G) "Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined under applicable state law.

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- (d) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel shall be separately assessed.
 - (e) When a parcel of land which has been classified as agricultural is improved with a single-family dwelling and has qualified for a home exemption for the tax year, that portion of the parcel which is used for residential purposes shall be classified as improved residential. This classification shall:
 - (1) Apply only to that portion used for residential purposes;
 - (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
 - (3) Remain in effect only so long as the property qualifies for a home exemption.
 - (f) When a parcel of land which has been classified as preservation is improved with a single-family dwelling and has qualified for a home exemption for the tax year, that portion of the parcel which is used for residential purposes shall be classified as improved residential. This classification shall:
 - (1) Apply only to that portion used for residential purposes;
 - (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
 - (3) Remain in effect only so long as the property qualifies for a home exemption.
 - (g)
 - (1) In determining the value of buildings, consideration shall be given to any additions, alterations, remodeling, modifications or other new construction, improvement or repair work undertaken upon or made to existing buildings as the same may result in a higher assessable valuation of said buildings; provided, however, that any increase in value resulting from any additions, alterations, modifications or other new construction, improvement or repair work to buildings undertaken or made by the owner-occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation or conservation project under the provisions of Part II of HRS Chapter 53, shall not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.
 - (2) It is further provided that the owner-occupant shall file with the director, in the manner and place which the director may designate, a statement of the details of the improvements certified in the following manner:
 - (A) In the case of additions, alterations, modifications or other new construction, improvement or repair work to a building that are undertaken pursuant to any urban redevelopment, rehabilitation or conservation project as hereinabove mentioned, the statement shall be certified by the mayor or any governmental official designated by the mayor and approved by the council, that the additions, alterations, modifications, or other new construction, improvement or repair work to the buildings were made and satisfactorily comply with the particular urban development, rehabilitation or conservation act provision; or
 - (B) In the case of maintenance or repairs to a residential building undertaken pursuant to any health, safety, sanitation or other governmental code provision, the statement shall be certified by the mayor or any governmental official designated by the mayor and approved by the council, that (i) the building was inspected by them and found to be substandard when the owner-occupant made the claim, and (ii) the maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision.
 - (h) Notwithstanding the provisions of subsection (c)(2), properties operating as transient vacation units in accordance with Section 21-4.110-1, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.
- (Sec. 8-7.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 84-98, 91-84, 92-63, 94-08, 94-79, 00-66, 02-39, 02-45, 04-34, 04-35)

Sec. 8-7.2 Water tanks.

Any provision to the contrary notwithstanding, any tank or other storage receptacle required by any government agency to be constructed or installed on any taxable real property before water for home and farm use is supplied, and any other water tank, owned and used by a real property taxpayer for storing water solely for the taxpayer's own domestic use, shall be exempted in determining and assessing the value of such taxable real property. (Sec. 8-7.2, R.O. 1978 (1983 Ed.))

Sec. 8-7.3 Dedication of Lands for Agricultural Use.

- (a) As used in this section:

"Agricultural use of land" means the active use of the land for the production of agricultural products.

"Agricultural products" include such products as floricultural, horticultural, viticultural, aquacultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, tree farm, animals raised by grazing and pasturing, and any other farm, agronomic, or plantation products.

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“Owner” or “property owner” mean the fee simple owner of the real property provided that for government owned real property, “owner” or “property owner” mean a lessee of the land where (i) the lease allows the specific agricultural use, and (ii) the lease term extends through the period of the dedication.

“Maintain as agricultural land” means that the subject land throughout the subject time period is not, at the initiation of the owner or with the authorization of the owner, subject to (i) a change in the state land use classification from agriculture to urban or rural district, (ii) a change in the county zoning from agriculture, preservation or country district, or (iii) a subdivision of the land into parcels of five acres or less.

“Substantial and continuous agricultural use” means no less than 75 percent of the area of the subject land, but excluding the area of unusable land, is in active, continuous and revenue-generating agricultural use throughout the subject time period. For lands dedicated for a period of five years or 10 years, substantial and continuous agricultural use shall include necessary and customary fallowing periods.

“Tree farm property” and “tree farm” mean land classified as tree farm property under Hawaii Revised Statutes Chapter 186.

“Unusable land” means that portion of the lands dedicated for a specific agricultural use that the director determines to be unsuitable for the dedicated agricultural use.

- (b) Lands for which the director has approved a petition for dedication for a specific agricultural use for a period of one year, five years, or 10 years shall be classified and assessed for real property tax purposes at a percentage of the land’s fair market value as established in subdivision (2) and shall be subject to the following:
 - (1) The land dedicated must be substantially and continuously used for the business of raising and producing agricultural products in their natural state.
 - (2) Dedicated land shall be assessed as follows:
 - (A) For land dedicated for a period of one year, the land shall be assessed at five percent of its fair market value.
 - (B) For land dedicated for a period of five years, the land shall be assessed at three percent of its fair market value.
 - (C) For land dedicated for a period of 10 years, the land shall be assessed at one percent of its fair market value.
 - (D) For land dedicated for a pasture use for a period of one, five or 10 years, the land shall be assessed at one percent of its fair market value.
 - (3) The land dedicated shall be substantially and continuously in a use specified under subdivision (1) for the duration of the dedication period.
- (c) Notwithstanding the provisions of subsection (b), in the event the highest per acre calculation for lands dedicated for five years under subsection (b)(2)(B) based on the minimum lot size as designated in the chapter 21 for lands located in agricultural districts exceeds the average agricultural production value per acre for the county for vegetables and melon crops, and fruits excluding pineapple, as determined annually by the director, then the percent of market value for five year dedications set forth in subsection (b)(2)(B) shall be changed so as not to exceed the average agricultural production value per acre for such crops. The percent of market value for one year dedications set forth in subsection (b)(2)(A) shall also be changed to not exceed the percent of market value for five year dedications by more than 1.67 times, and the percent of market value for 10 year dedications set forth in subsection (b)(2)(C) shall also be changed to not exceed the percent of market value for five year dedications by more than 0.33 times.
- (d) Lands for which the director has approved a petition for dedication as vacant agricultural land for a period of 10 years shall be classified and assessed for real property tax purposes at 50 percent of the land’s fair market value, provided that for the period of the dedication, the land dedicated is not, at the initiation of the owner or with the authorization of the owner, subject to (i) a change in the state land use classification from agriculture to urban or rural district, (ii) a change in the county zoning from agriculture, preservation or country district, or (iii) a subdivision of the land into parcels of five acres or less.
- (e) A petition to dedicate land for a specific agricultural use or as vacant agricultural land shall be filed with the director. An owner of the land may petition for dedication, or with the written authorization of the owner, a lessee, permittee or licensee may petition for dedication of the owner's land. The petition for dedication for a specific agricultural use shall require a declaration that if the petition is approved by the director, the land shall be used for the specific agricultural use for the duration of the dedication period, and a petition for dedication as vacant agricultural land shall require a declaration that if the petition is approved by the director, the land shall be maintained as agriculture land for the duration of the dedication period. The petition for a dedication for a specific agricultural use shall be supported by an agricultural plan. The director shall prescribe the form of the petition and of the agricultural plan. The agricultural plan may include the following:

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- (1) A description of the specific agricultural use;
 - (2) A tax map key number of the owner's land;
 - (3) A description of the total acreage of the land;
 - (4) A description of the acreage to be utilized for the specific agricultural use;
 - (5) A timetable for implementation of the plan; and
 - (6) A copy of a valid State of Hawaii general excise tax license issued for agricultural purposes.
- (f) Lands which have been approved for dedication as vacant agricultural land may have their dedicated use changed to a specific agricultural use without the imposition of the rollback tax and penalty upon petition to the director to change the dedication of the lands to a specific agricultural use, provided that:
- (1) When the remaining period of the dedication for vacant agricultural land is more than five years, the dedication for a specific agricultural use shall be for a five or 10 year period;
 - (2) When the remaining period of the dedication for vacant agricultural land is less than five years, the dedication for a specific agricultural use shall be for a one, five, or 10 year period.
- The petition for change of the dedication shall be filed by the owner of the land or with the written authorization of the owner, by a lessee, permittee or licensee of the land, as the case may be. The director shall prescribe the form of the petition to change dedication.
- (g) Upon receipt of a petition as provided in subsection (e), the director shall make a finding of fact as to whether the land in the petition area is reasonably well suited for the designated specific agricultural use or is classified agriculture under section 8-7.1 and qualifies to be maintained as agricultural land. The finding shall be based upon a study of the ownership, size of operating unit, the present use of surrounding similar lands, the state and county land use restrictions for the land and other criteria as may be appropriate. The director shall also make a finding of fact as to whether the designated specific agricultural use or vacant agricultural land use conforms to the development plan for the area. The director shall also make a finding of fact as to the economic feasibility of the designated specific agricultural use of the land. If all of the findings are favorable, the director shall approve the petition and declare the land to be dedicated for the designated specific agricultural use or as vacant agricultural land.
- (h) The approval by the director of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of the owner's land to a use other than agriculture for a minimum period of one year, five years, or 10 years, as the case may be or to cease to maintain the land as agricultural land for a minimum of 10 years.
- (i) The petition for dedication shall be filed with the director by September 1st of any calendar year and shall be approved or disapproved by October 31. If approved, the assessment based upon the use requested in the petition for dedication shall be effective on July 1st of the following tax year.
- (j) The owner of any parcel of land dedicated under this section shall annually submit a report to the director no later than September 1st following each tax year of the dedication. The report may be rejected by the director in the event the report is incomplete or contains erroneous or incorrect information. The report shall be accepted or rejected by the director by October 31 of the year in which it is submitted. The director shall prescribe the form of the report. The report may include but is not limited to:
- (1) An updated description of the agricultural use of the land during the immediately preceding and current tax years;
 - (2) A copy of all state general excise tax returns for the immediately preceding tax year concerning activities conducted on the parcel of land dedicated for a specific agricultural use;
 - (3) A description of the acreage and percentage of the area of the parcel of land utilized for the specified agricultural use during the immediately preceding and current tax years; and
 - (4) A declaration, if applicable, that the owner will keep the land in substantial and continuous agricultural use, or will maintain the land as agricultural land through the remaining period of the dedication.
- Any part of the report containing confidential commercial or financial information, including income statements or tax statements, shall be clearly labeled by the owner as such and shall not be open to inspection by the public.
- (k) If land dedicated for agricultural use undergoes a change in classification which is not at the initiation of the owner or with the authorization of the owner, such that there is (i) a change in the state land use classification from agriculture to urban or rural district, (ii) a change in the county zoning from agriculture, preservation or country district, the dedication shall continue unless the owner files a written notice of cancellation with the director within 60 days of the change. Such cancellation shall be effective on the next July 1st which is at least nine months after the filing.
- (l) In the event that a dedication is canceled or expires, the director shall execute an expiration or cancellation of the dedication.

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- (m) In the event the director, upon inspection, finds that dedicated agricultural land is not in substantial and continuous agricultural use, that the land has not been maintained as agricultural land, that the property owner failed to file the required report in a timely manner, or that the required report must be rejected, the owner shall be notified of the finding and the owner shall have 60 days to address the finding. In the event the owner fails to satisfactorily address the finding, the dedication shall be canceled and the property owner shall be subject to a rollback tax and penalty. The rollback tax shall be the difference between the taxes owed for the land at 100 percent of the land's assessed value at fair market value and the taxes actually imposed on the land, retroactive from June 30th of the tax year in which the dedication was canceled to July 1st of the initial year of the dedication at the tax rate applicable for the respective tax years, except as provided in paragraphs (1) and (2) below. The penalty shall be 10 percent for each year of the rollback tax. The rollback tax and penalty shall be a paramount lien upon the property.
- (1) For lands dedicated for five years and subject to a cancellation after the third tax year of the dedication period, the period of the rollback tax shall be in accordance with the following schedule:
- (A) For two tax years for a cancellation in the fourth tax year of the dedication period, retroactive from June 30th of the fourth tax year to July 1st of the third tax year of the dedication period;
 - (B) For one tax year for a cancellation in the fifth tax year of the dedication period, retroactive from June 30th of the fifth tax year to July 1st of the fifth tax year of the dedication period.
- (2) For lands dedicated for 10 years and subject to a cancellation after the fifth year of the dedication period, the period of the rollback tax shall be in accordance with the following schedule:
- (A) For five tax years for a cancellation in the sixth tax year of the dedication period, retroactive from June 30th of the sixth tax year to July 1st of the second tax year of the dedication period;
 - (B) For four tax years for a cancellation in the seventh tax year of the dedication period, retroactive from June 30th of the seventh tax year to July 1st of the fourth tax year of the dedication period;
 - (C) For three tax years for a cancellation in the eighth tax year of the dedication period, retroactive from June 30th of the eighth tax year to July 1st of the sixth tax year of the dedication period;
 - (D) For two tax years for a cancellation in the ninth tax year of the dedication period, retroactive from June 30th of the ninth tax year to July 1st of the eighth tax year of the dedication period;
 - (E) For one tax year for a cancellation in the tenth tax year of the dedication period, retroactive from June 30th of the tenth tax year to July 1st of the tenth tax year of the dedication period;
- (n) The owner may appeal any disapproved petition for dedication, rejection of the annual report, cancellation of the dedication, or imposition of a rollback tax and penalty in the same manner as an appeal from an assessment.
- (o) Notwithstanding any provision in this section to the contrary, the occurrence of any of the following events shall cause the dedication to be canceled without the imposition of any rollback taxes or penalties whatsoever.
- (1) The death of any owner; or
 - (2) Events beyond the owner's control make it unfeasible to continue the agricultural use of the dedicated property, including, but not limited to:
 - (A) A serious or debilitating long-term illness or injury suffered by the owner;
 - (B) A natural disaster such as a windstorm, flood, disease, or infestation that destroys the crop or livestock on the dedicated parcel; or
 - (C) The taking of the dedicated parcel or any portion thereof by a governmental entity, provided that where only a portion of the parcel is taken, the cancellation shall be effective only as to the portion taken.
 - (3) The change of a dedication of vacant agricultural lands to a dedication for a specific agricultural use under subsection (f).
- (p) Notwithstanding any provisions in this section to the contrary, for five and 10 year dedications of land for a specific agricultural use, the director may grant an owner a grace period which may be granted subject to the following conditions:
- (1) A grace period may be granted only if one of the following events occurs:
 - (A) A bank or other lending institution acquires possession of a property as a result of a default of a mortgage on the property; or
 - (B) The agricultural use of a dedicated parcel is terminated because a lessee has abandoned or terminated a lease prior to the end of the term of the lease, the owner of the parcel has not found another lessee, and the lease has a term of five years or longer.
 - (2) During the grace period, the owner is not required to use the land for the business of raising and producing agricultural products.

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- (3) At the end of the grace period, the owner shall use the land for the business of raising and producing agricultural products for the entire remaining period of the owner's dedication. The grace period shall not be counted in determining the owner's compliance with the dedication.
 - (4) The grace period shall not exceed two years.
 - (5) During the grace period, the land shall be assessed at 100% of market value.
 - (6) No grace period shall be granted for a parcel of land within five years following the expiration of a previous grace period.
- (Sec. 8-7.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 84-98, 92-94, 94-79, 96-15, 02-39, 04-34)

Sec. 8-7.4 Lands dedicated for golf course use.

- (a) The following definitions shall apply for purposes of this section.

"Cost of development" means the actual or estimated costs to improve the land into an operating golf course.

"Golf course" means property that has been developed for the sport of golf, including its related and incidental activities.

"Golf course use" means the actual use of property for the sport of golf and its related and incidental activities.

"Owner" means a fee owner or any lessee of real property whose lease term extends at least ten years effective from the date of the petition. Such lease must be duly entered into and recorded at the Bureau of Conveyances or filed in the Office of the Assistant Registrar of the Land Court, on or before the date of the petition.

"Rental income" means land rent based on golf course use.

"Rollback tax" means the difference between the amount of taxes that a dedicated golf course owner paid and the higher amount of taxes, if any, that would have been due from the owner if the golf course had not been dedicated under this section.

"Sale Price" means the sale price of a property operated and used as a golf course and land acquired for golf course use.

- (b) In order to qualify in having land assessed in valuation as a golf course, the owner of any parcel of land desiring to use or presently using such person's land for a golf course shall as a condition precedent qualify as follows:

- (1) Dedication of Land.

- (A) The owner of any parcel of land for a golf course shall petition the director and declare in the owner's petition that the owner will dedicate the owner's parcel of land for golf course use.
- (B) The approval by the director of the petition to dedicate the land shall constitute a forfeiture on the part of the owner of any right to change the use of the land for a minimum period of 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time.
- (C) The failure of the owner to observe the restrictions on the use of the land as a golf course shall cancel the land assessment based on golf course use retroactive to the date of the dedication but not more than 10 years prior to the tax year in which the dedication is canceled; and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a six percent a year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use the land in that manner requested in the petition as a golf course by the overt act of changing the use for any period. Nothing in this paragraph shall preclude the county from pursuing any other remedy to enforce the covenant on the use of that land as a golf course.
- (D) The director shall prescribe the form of the petition. The petition shall be filed by September 1st of any calendar year and shall be approved or disapproved by October 31st of such year. If approved, the assessment based upon the use requested in the dedication shall be effective on October 1st of the same calendar year.
- (E) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
- (F) When the owner has failed to observe the dedication restriction on golf course use, and at which time the dedication is canceled, the amount of additional taxes due and owing shall attach to the property as a paramount lien in favor of the county.

- (c) Dedicated property operated and used as a golf course shall be valued and assessed for property tax purposes on the following basis:

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- (1) The value to be assessed by the director shall be on the basis of its actual use as a golf course rather than on the valuation based on the highest and best use of the land.
 - (2) In determining the value of actual use, the factors to be considered shall include, among others, rental income, cost of development, and sale price.
 - (d) **Covenant Not to Engage in Discrimination.** The owner shall covenant in the owner's petition with the director of finance that the owner will not discriminate against any individual in the use of the golf course facilities because of the individual's race, sex, religion, color or ancestry.
- (Secs. 8-7.4, 8-7.5, R.O. 1978 (1983 Ed.); Sec. 8-7.4, R.O. 1987 Supp.; Am. Ord. 96-15, 00-64)

Sec. 8-7.5 Certain lands dedicated for residential use.

- (a) The term "owner" as used in this section means a person who is the fee simple owner of real property, or who is the lessee of real property whose lease term extends at least 10 years from the date of the petition.
 - (b) A special land reserve is established to enable the owner of any parcel of land within a hotel, apartment, resort, commercial or industrial district to dedicate such person's land for residential use and to have such person's land assessed at its value in residential use; provided, that (1) the land dedicated shall be limited to a parcel used only for single family dwelling residential use; (2) the owner of the land dedicated shall use it as the owner's home; and (3) not more than one parcel of land shall be dedicated for residential use by any owner.
 - (c)
 - (1) If any owner desires to use such person's land for residential use and to have such person's land assessed at its value in this use, the owner shall so petition the director of finance and declare in such person's petition that if such person's petition is approved, the owner will use such person's land for single family dwelling residential use only and that such person's land so dedicated will be used as such person's home.
 - (2) Upon receipt of any such petition, the director of finance shall make a finding of fact as to whether the land described in the petition is being used by the owner for single-family dwelling residential use only and as the owner's home. If the finding is favorable to the owner, the director of finance shall approve the petition and declare the land to be dedicated.
 - (d) The approval of the petition by the director of finance to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of such person's land for a minimum period of 10 years, automatically renewable thereafter for additional periods of 10 years subject to cancellation by either the owner or the director of finance.
 - (e)
 - (1) Failure of the owner to observe the restrictions on the use of such person's land or the sale of the property shall cancel the special tax assessment privilege retroactive to the date of the dedication, or the latest renewal-10-year period, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a 10 percent per year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use the land in the manner requested in the petition or the overt act of changing the use for any period, or the sale of the real property. Nothing in this subsection shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.
 - (2) The additional taxes and penalties, due and owing as a result of failure to use or any other breach of the dedication shall be a paramount lien upon the property as provided for by this chapter.
 - (f) The director of finance shall prescribe the form of the petition. The petition shall be filed with the director of finance by September 1st of any calendar year and shall be approved or disapproved by October 31st of that calendar year. If the petition is approved, the assessment based upon the use requested in the dedication shall be effective on October 1st of the same calendar year.
 - (g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
- (Sec. 8-7.6, R.O. 1978 (1983 Ed.); Sec. 8-7.5, R.O. 1987 Supp.; Am. Ord. 96-15)

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Article 8. Wasteland Development

Sections:

- 8-8.1 Definitions.**
- 8-8.2 Eligibility.**
- 8-8.3 Application.**
- 8-8.4 Classification.**
- 8-8.5 Development and maintenance of wasteland development property.**
- 8-8.6 Special tax assessment.**
- 8-8.7 Declassification.**
- 8-8.8 Appeals.**

Sec. 8-8.1 Definitions.

When used in this article:

"Department" means the department of finance.

"Director" means the director of the department of finance.

The term "owner" includes any person leasing the real property of another under a lease having a stated term of not less than 30 years.

"Wasteland" means land which is classified as such by the director of the department of finance. (Sec. 8-8.1, R.O. 1978 (1983 Ed.))

Sec. 8-8.2 Eligibility.

Any property of not less than 25 acres in area is eligible for classification as wasteland development property if it meets the classification requirements of wasteland property as established by the director of finance. No real property under a lease having an unexpired term of less than 30 years shall be eligible for classification as wasteland development property. (Sec. 8-8.2, R.O. 1978 (1983 Ed.))

Sec. 8-8.3 Application.

The owner of any property may apply to the director of finance for classification of the owner's land as wasteland development property. The application shall include a description of the property, the manner in which the property will be developed, and such additional information as may be required by the director. The application shall state that all persons having any interest in or holding any encumbrance upon the property have joined in making the application and that all of them will comply with the laws and regulations relating to the use, building requirements, and development of real property. (Sec. 8-8.3, R.O. 1978 (1983 Ed.))

Sec. 8-8.4 Classification.

- (a) Within four months after the filing of the application with the director of finance, the director shall make a finding of fact as to the eligibility of such land for classification as wasteland development property, whether it can be developed in the manner specified by the owner, whether the development will add to the development of the economy of the state, and whether the development will broaden the tax base of the state. The determination shall be based upon all available information on soils, climate, land use trends, watershed values, present use of surrounding similar lands, and other criteria as may be appropriate.
 - (b) Upon the finding by the director that the property is eligible for classification as wasteland development property, that it can be developed in the manner specified by the owner, that the development will add to the economy of the state, and that it will broaden the tax base of the state, the property shall be classified as wasteland development property. If the director finds it otherwise for any one of the above criteria, the application shall be disapproved.
 - (c) The applicant may appeal any disapproved application as in the case of an appeal from an assessment.
 - (d) Land classified as wasteland development property shall be administered by the department of finance and the department may from time to time make rules and regulations for their administration pursuant to HRS Chapter 91.
- (Sec. 8-8.4, R.O. 1978 (1983 Ed.))

Sec. 8-8.5 Development and maintenance of wasteland development property.

Within one year following the approval of the application, the owner shall develop that portion of the owner's land as specified in the owner's application and as approved by the director of finance. Additional areas shall be developed each year as prescribed by the director. (Sec. 8-8.5, R.O. 1978 (1983 Ed.))

Sec. 8-8.6 Special tax assessment.

Any property classified as wasteland development property by the director of finance shall be, for a period of five years, assessed for real property tax purposes at its value as wasteland. The five-year period shall commence from July 1st of the tax year following the approval of the application. (Sec. 8-8.6, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 8-8.7 Declassification.

Thirty days after notification to the owner by the department of finance for noncompliance of any law, ordinance, rule or regulation, the director of finance may declassify any land classified as wasteland development property. The department shall notify the owner of the declassification and in that event, the director shall cancel the special tax assessment provided in Section 8-8.6 retroactive to the date that the property qualified for special tax assessment and the difference between the real property taxes that would have become due and payable but for such classification for all the years the land was classified as wasteland development property and the real property taxes paid by the owner during such period shall become immediately due and payable together with a five percent a year penalty from the respective dates that such additional tax would otherwise have been due. (Sec. 8-8.7, R.O. 1978 (1983 Ed.))

Sec. 8-8.8 Appeals.

Any person aggrieved by the additional assessment for any year may appeal from such assessment in the manner provided in the case of real property tax appeals. (Sec. 8-8.8, R.O. 1978 (1983 Ed.))

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Article 9. Nontaxable Property--Assessment

Sections:

8-9.1 Nontaxable property.

Sec. 8-9.1 Nontaxable property.

- (a) For purposes of accountability, the director of budget and fiscal services shall prepare a notice of property assessment for each parcel of nontaxable real property within the city.
- (b) The notice shall contain the valuation of the real property and an exemption in the full amount of the valuation.

(Sec. 8-9.1, R.O. 1978 (1983 Ed.); Am. Ord. 92-124, 02-45)

Article 10. Exemptions

Sections:

- 8-10.1 Claims for certain exemptions.**
- 8-10.2 Rules and regulations.**
- 8-10.3 Reserved.**
- 8-10.4 Homes.**
- 8-10.5 Home, lease, lessees defined.**
- 8-10.6 Exemption--Homes of totally disabled veterans.**
- 8-10.7 Exemption--Persons affected with leprosy.**
- 8-10.8 Exemption--Persons with impaired sight or hearing and persons totally disabled.**
- 8-10.9 Exemption--Nonprofit medical, hospital indemnity association.**
- 8-10.10 Exemption--Charitable purposes.**
- 8-10.11 Exemption--Property used in manufacture of pulp and paper.**
- 8-10.12 Exemption--Crop shelters.**
- 8-10.13 Exemption--Dedicated lands in urban districts.**
- 8-10.14 Exemption--Air pollution control facility.**
- 8-10.15 Exemption--Alternate energy improvements.**
- 8-10.16 Exemption--Fixtures used in manufacturing or producing tangible personal products.**
- 8-10.17 Exemption--Public property.**
- 8-10.18 Lessees of exempt real property.**
- 8-10.19 Property of the United States leased under the National Housing Act.**
- 8-10.20 Exemption--Low-income rental housing.**
- 8-10.21 Claim for exemption.**
- 8-10.22 Exemption--Historic residential real property dedicated for preservation.**
- 8-10.23 Other exemptions.**
- 8-10.24 Exemption--Credit union.**
- 8-10.25 Exemption--Slaughterhouses.**
- 8-10.26 Exemption--Qualifying construction work.**
- 8-10.27 Exemption--Public service.**
- 8-10.28 Additional terms and conditions for exemption of low-income rental housing projects on Hawaiian home lands.**
- 8-10.29 Exemption-Nonprofit Organization Thrift Shops.**
- 8-10.30 Exemption-Historic commercial real property dedicated for preservation.**
- 8-10.31 Exemption--Qualifying agricultural improvements for dedicated vacant agricultural lands**

Sec. 8-10.1 Claims for certain exemptions.

- (a) None of the exemptions from taxation granted in Sections 8-10.4, 8-10.6 through 8-10.11, 8-10.24, 8-10.27, and 8-10.29 shall be allowed in any case, unless the claimant shall have filed with the department of budget and fiscal services on or before September 30th preceding the tax year for which such exemption is claimed, a claim for exemption in such form as shall be prescribed by the department.
- (b) A claim for exemption, once allowed, shall have continuing effect until:
 - (1) The exemption is disallowed;
 - (2) The assessor voids the claim after first giving notice (either to the claimant or to all claimants in the manner provided for by this chapter) that the claim or claims on file will be voided on a certain date, not less than 30 days after such notice;
 - (3) The five-year period for exemption, as allowed in Section 8-10.11, expires; or
 - (4) The report required by subsection (d) is made.
- (c) A claimant may file a claim for exemption even though there is on file and in effect a claim covering the same premises, or a claim previously filed and disallowed or otherwise voided. However, no such claim shall be filed if it is identical with one already on file and having continuing effect. The report required by subsection (d) of this section may be accompanied by or combined with a new claim.
- (d) The owner of any property which has been allowed an exemption under Sections 8-10.4, 8-10.6 through 8-10.11, 8-10.24, 8-10.27, and 8-10.29 has a duty to report to the assessor within 30 days after such owner or property ceases to qualify for such an exemption for, among others, the following reasons:
 - (1) The ownership of the property has changed;

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- (2) A change in the facts previously reported has occurred concerning the occupation, use or renting of the premises, buildings or other improvements thereon; or
- (3) A change in status has occurred which affects the owner's exemption.

Such report shall have the effect of voiding the claim for exemption previously filed, as provided in subsection (b)(4) of this section. The report shall be sufficient if it identifies the property involved, states the change in facts or status, and requests that the claim for exemption previously filed be voided.

In the event the property comes into the hands of a fiduciary who is answerable as provided for by this chapter, the fiduciary shall make the report required by this subsection within 30 days after the assumption of the fiduciary's duties or within the time otherwise required, whichever is later.

A penalty shall be imposed for the failure to make the report required by this subsection. The amount of the penalty shall be the lesser of: (A) \$200.00 for each year that the change in facts remains unreported; or (B) the amount of the taxes due for the property computed without the claim for exemption as of October 1st immediately preceding the tax year in which the report was due. In addition to this penalty, the taxes due on the property plus any additional penalties and interest thereon shall be a paramount lien on the property as provided for by this chapter.

- (e) If the assessor is of the view that, for any tax year, the exemption should not be allowed, in whole or in part, the assessor may at any time within five years of October 1st of that year disallow the exemption for that year, in whole or in part, and may add to the assessment list for that year the amount of value involved, in the manner provided for by this chapter for the assessment of omitted property.

(Sec. 8-10.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 88-01, 89-129, 95-67, 96-15, 01-60, 03-05)

Sec. 8-10.2 Rules and regulations.

The director of finance may promulgate rules and regulations as may be necessary to administer Sections 8-10.4 to 8-10.17. (Sec. 8-10.2, R.O. 1978 (1983 Ed.))

(Sec. 8-10.3 Assignment of partial exemptions. Repealed by Ord. 02-45.)

Sec. 8-10.4 Homes.

- (a) Real property owned and occupied only as the owner's principal home as of the date of assessment by an individual or individuals, shall be exempt only to the following extent from property taxes:
 - (1) Totally exempt where the value of a property is not in excess of \$40,000.00;
 - (2) Where the value of the property is in excess of \$40,000.00, the exemption shall be the amount of \$40,000.00.Provided:
 - (A) That no such exemption shall be allowed to any corporation, copartnership or company;
 - (B) That the exemption shall not be allowed on more than one home for any one taxpayer;
 - (C) That where the taxpayer has acquired the taxpayer's home by a deed made on or after July 1, 1951, the deed shall have been recorded on or before September 30th immediately preceding the year for which the exemption is claimed;
 - (D) That a husband and wife shall not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case they shall be entitled to one exemption, to be apportioned between each of their respective homes in proportion to the value thereof; and
 - (E) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion thereof used exclusively as a home.

For the purposes of this section, "real property owned and occupied only as the owner's principal home" means occupancy of a home in the city with the intent to reside in the city. Intent to reside in the city may be evidenced by, but not limited to, the following indicia: occupancy of a home in the city for more than 270 calendar days of a calendar year; registering to vote in the city; being stationed in the city under military orders of the United States; and filing of an income tax return as a resident of the State of Hawaii, with a reported address in the city. The director may demand documentation of the above or other indicia of intent to reside in the city from a property owner applying for an exemption or from an owner as evidence of continued qualification for an exemption. Failure to respond to the director's request shall be grounds for denying a claim for an exemption or disallowing an existing exemption.

In the event the director receives satisfactory evidence that an individual occupies a home outside the city and there is documented evidence of the individual's intent to reside outside the city, that

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individual shall not be qualified for an exemption or continued exemption under this section, as the case may be.

Notwithstanding any provision to the contrary, for real property held by a trustee or other fiduciary the trustee or other fiduciary shall be entitled to the exemption where: (i) the settlor of the trust occupies the property as the settlor's principal home; or (ii) the settlor of the trust dies and a beneficiary entitled to live in the home under the terms of the trust document occupies the property as the beneficiary's principal home.

- (b) The use of a portion of any building or structure for the purpose of drying coffee and the use of a portion of real property, including structures, in connection with the planting and growing for commercial purposes, or the packing and processing for such purposes, of flowers, plants, or foliage, shall not affect the exemptions provided for by this section.
- (c) Where two or more individuals jointly, by the entirety, or in common own or lease land on which their homes are located, each home, if otherwise qualified for the exemption granted by this section, shall receive the exemption. If a portion of land held jointly, by the entirety, or in common by two or more individuals is not qualified to receive an exemption, such disqualification shall not affect the eligibility for an exemption or exemptions of the remaining portion.
- (d) A taxpayer who is 55 years of age or over on or before June 30th preceding the tax year for which the exemption is claimed and who qualifies under subsection (a) of this section shall be entitled to one of the following multiples of home exemption:

Age of Taxpayer	Multiple to be Used in Computing Home Exemption Amount
55 years of age or over but not 60 years of age or over	1.5
60 years of age or over but not 65 years of age or over	2.0
65 years of age or over but not 70 years of age or over	2.5
70 years of age or over	3.0

For the purpose of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under the provisions of subsection (a) of this section has been granted shall be entitled to the applicable multiple of home exemption set forth above when at least one of the spouses qualifies each year for the applicable multiple of home exemption.

- (e) (1) In lieu of the multiple home exemption provided in subsection (d), a low-income taxpayer who:
 - (A) Is 75 years of age or over on or before June 30th preceding the tax year for which the exemption is claimed;
 - (B) Qualifies under subsection (a) of this section;
 - (C) Applies for the exemption each tax year; and
 - (D) Has household income that meets the definition of "low-income" in Section 8-10.20(a) shall be entitled to one of the following multiples of home exemption for that tax year:

Age of Taxpayer	Multiple to be Used in Computing Home Exemption Amount
75 years of age or over but not 80 years of age or over	3.5
80 years of age or over but not 85 years of age or over	4.0
85 years of age or over but not 90 years of age or over	4.5
90 years of age or over	5.0

- (2) For the purpose of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under the provisions of subsection (a) of this section has been granted and qualify under this subsection shall be entitled to the applicable multiple of home exemption set forth above when at least one of the spouses qualifies each year for the minimum age of the applicable multiple of home exemption.

(Sec. 8-10.4, R.O. 1978 (1983 Ed.); Am. Ord. 88-84, 89-132, 94-76, 96-15, 04-31, 05-004)

Sec. 8-10.5 Home, lease, lessees defined.

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- (a) For the purpose of Section 8-10.4, the word "home" includes:
- (1) The entire homestead when it is occupied by the taxpayer as such;
 - (2) A residential building on land held by the lessee or the lessee's successor in interest under a lease for a term of five years or more for residential purposes and owned and used as a residence by the lessee or the lessee's successor in interest, where the lease and any extension, renewal, assignment or agreement to assign the lease, have been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, and whereby the lessee agrees to pay all taxes during the term of the lease;
 - (3) A condominium unit, with its appertaining common interest, which is occupied as a residence by the owner of the unit. The "owner of a condominium unit" means the individual:
 - (A) Owning the fee simple interest in the unit and its appertaining common interest; or
 - (B) Holding the leasehold interest in the unit and its appertaining common interest under a lease:
 - (i) For a term of five years or more for residential purposes;
 - (ii) Duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed; and
 - (iii) Requiring the holder of the leasehold interest to pay all real property taxes during the term of the lease.
 - (4) An apartment which is a living unit (held under a proprietary lease by the tenant thereof) in a multi-unit residential building on land held by a cooperative apartment corporation (of which the proprietary lessee of such living unit is a stockholder) under a lease for a term of five years or more for residential purposes and which apartment is used as a residence by the lessee-stockholder, where the lease and any extension or renewal have been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, and whereby the lessee-stockholder agrees to pay all taxes during the term of the lease provided that:
 - (A) The exemption shall not be allowed in respect to any cooperative apartment unit where the owner of the cooperative apartment unit claims exemption on a home or other cooperative apartment unit; and
 - (B) The owner or owners of a cooperative apartment building or premises shall not be permitted exemptions where a husband and wife owner of a cooperative apartment unit own separate cooperative apartment units or separate homes owned by each of them, unless they are living separate and apart, in which case the owner of the cooperative apartment or premises shall be entitled to one-half of one exemption;
 - (5) An apartment in a multi-unit apartment building which is occupied by the owner of the entire apartment building as such person's residence, provided that:
 - (A) The exemption shall not be allowed in respect to any apartment owner who claims any other home exemption; and
 - (B) A husband or wife owner of the aforementioned type of apartment shall not be allowed a full exemption where the husband and wife are living separate and apart and each is maintaining an apartment or home entitled to an exemption, in which case they shall be entitled to one exemption to be apportioned between each of their respective homes in proportion to the value thereof;
 - (6) That portion of a residential duplex and that portion of land appurtenant to the duplex which are occupied by the owner of the duplex and land as the owner's residence, provided that:
 - (A) The exemption shall not be allowed in respect to any duplex owner who claims any other home exemption;
 - (B) The portion of the appurtenant land shall not be exempt unless owned in fee by the duplex owner; and
 - (C) A husband or wife owner of the duplex shall not be allowed a full exemption where the husband and wife are living separate and apart and each is maintaining a duplex or home entitled to an exemption, in which case they shall be entitled to one exemption to be apportioned between each of their respective homes in proportion to the value thereof;
 - (7) Premises held under an agreement to purchase the same for a home, where the agreement has been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises; and
 - (8) An apartment which is a living unit (held under a lease by the tenant thereof) in a multi-unit residential building used for retirement purposes under a lease for a term to last during the lifetime of the lessee and the lessee's surviving spouse and which apartment is used as a residence by the lessee and the lessee's surviving spouse, and where the apartment unit reverts back to the lessor upon the death of the lessee and the lessee's surviving spouse, and where the lease has been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, and whereby the lessee agrees to pay all taxes during the term of the lease.

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- (b) The subletting by the taxpayer of not more than one room to a tenant shall not affect the exemption provided for by Section 8-10.4.
 - (c) As used in Section 8-10.4, in the first paragraph of Section 8-6.3 and in Section 8-10.1, the word "lease" shall be deemed to include a sublease, and the word "lessee" shall be deemed to include a sublessee.
- (Sec. 8-10.5, R.O. 1978 (1983 Ed.); Am. Ord. 92-63; Am. Ord. 96-15)

Sec. 8-10.6 Exemption--Homes of totally disabled veterans.

- (a) Real property:
 - (1) Owned and occupied as a home by any person who is totally disabled due to injuries received while on duty with the armed forces of the United States;
 - (2) Owned by any such person together with such person's spouse and occupied by either or both spouses as a home;
 - (3) Owned and occupied by a widow or widower of such totally disabled veteran who shall remain unmarried and who shall continue to own and occupy the premises as a home, is exempted from all property taxes, other than special assessments, subject to subsection (b).
 - (b) The exemption provided for in subsection (a) shall be subject to the following:
 - (1) That the total disability of the veteran was incurred while on duty as a member of the armed forces of the United States, and that the director may require proof of total disability.
 - (2) That the home exemption shall be granted only as long as the veteran claiming exemption remains totally disabled.
 - (3) That the exemption shall not be allowed on more than one house for any one person.
 - (4) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion used exclusively as a home; provided, that this exemption shall not apply to any structure, including the land thereunder, which is used for commercial purposes.
 - (5) That a widow or widower of a disabled veteran may apply for an exemption and the exemption may be granted even if the disabled veteran did not apply for and obtain the exemption provided for in subsection (a) during the veteran's lifetime, provided that the widow or widower submits proof satisfactory to the director that, at the time of the veteran's death, the veteran would have qualified for an exemption under this section.
 - (c) For the purposes of this section, the word "home" includes the entire homestead when it is occupied by a qualified totally disabled veteran or the veteran's qualifying widow or widower as a residence; houses where the occupant disabled veteran owner or the qualifying widow or widower owner sublets not more than one room to a tenant; and premises held under an agreement by which the disabled veteran agrees to purchase the same for a residence, where the agreement has been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises.
 - (d) The exemption shall take effect beginning with the next tax payment date, provided that the claimant shall have filed with the department a claim for a disability exemption along with a copy of a physician's certificate of disability on such form as the department shall prescribe on or before June 30 for the first payment or December 31 for the second payment.
- (Sec. 8-10.6, R.O. 1978 (1983 Ed.); Am. Ord. 96-15, 00-63)

Sec. 8-10.7 Exemption--Persons affected with leprosy.

Any person who has been declared by authority of law to be a person affected with leprosy in the communicable stage and is admitted to a hospital for isolation treatment shall, so long as such person is so hospitalized, and thereafter for so long as such person has been so declared to be therefrom temporarily released, and so long as such person remains or continues under temporary release, be exempted from real property taxes on all real property owned by such person on the date when such person was declared to be a person so affected with leprosy, up to, but not exceeding, a taxable value of \$25,000.00. (Sec. 8-10.7, R.O. 1978 (1983 Ed.))

Sec. 8-10.8 Exemption--Persons with impaired sight or hearing and persons totally disabled.

- (a) Any person who is blind or deaf, so long as the person's sight or hearing is so impaired, shall be exempt from real property taxes on all real property owned by the person up to, but not exceeding a taxable value of \$25,000.00. The impairment of sight or hearing shall be certified to by a qualified ophthalmologist, optometrist or otolaryngologist, as the case may be, on forms prescribed by the department of finance.
- (b) Any person who is totally disabled, as long as the person is totally disabled, shall be exempt from real property taxes on all real property owned by the person up to, but not exceeding a taxable value of \$25,000.00. The disability shall be certified to by a physician licensed under HRS, Chapter 453 or 460, or both, on forms prescribed by the department of finance.
- (c) When used in this section:

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"Blind" means a person whose visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"Deaf" means a person whose average loss in speech frequencies (500-2000 Hertz) in the better ear is 82 decibels, A.S.A., or worse.

"Totally disabled" means a person who is totally and permanently disabled, either physically or mentally, which results in the person's inability to engage in any substantial gainful business or occupation.

(Sec. 8-10.8, R.O. 1978 (1983 Ed.); Am. Ord. 89-138)

Sec. 8-10.9 Exemption--Nonprofit medical, hospital indemnity association.

Every association or society organized and operating under HRS Chapter 433, solely as a nonprofit medical indemnity or hospital service association or society or both shall be from the time of such organization, exempt from real property taxes on all real property owned by it. (Sec. 8-10.9, R.O. 1978 (1983 Ed.))

Sec. 8-10.10 Exemption--Charitable purposes.

- (a) There shall be exempt from real property taxes real property designated in subsection (b) or (c) of this section and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for nonprofit purposes. If an exemption is claimed under one of these subsections (b) and (c), an exemption for the same property may not also be claimed under the other of these subsections.
- (b) This subsection applies to property owned in fee simple, leased or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption. If the property for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances.

Exemption is allowed by this subsection to the following property:

- (1) Property used for school purposes including:
 - (A) Kindergartens, grade schools, junior high schools and high schools, which carry on a program of instruction meeting the requirements of the compulsory school attendance law, HRS Section 298-9, or which are for preschool children who have attained or will attain the age of five years on or before December 31st of the school year; provided, that any claim for exemption based on any of the foregoing uses shall be accompanied by a certificate issued by or under the authority of the department of education stating that the foregoing requirements are met.
 - (B) Junior colleges or colleges carrying on a general program of instruction of college level. The property exempt from taxation under this paragraph is limited to buildings for educational purposes (including dormitories), housing owned by the school or college and used as residence for personnel employed at the school or college, campus and athletic grounds, and realty used for vocational purposes incident to the school or college.
- (2) Property used for hospital and nursing home purposes, including housing for personnel employed at the hospital; in order to qualify under this paragraph the person claiming the exemption shall present with the claim a certificate issued by or under the authority of the state department of health that the property for which the exemption is claimed consists in, or is a part of, hospital or nursing home facilities which are properly constituted under the law and maintained to serve, and which do serve the public.
- (3) Property used for church purposes, including incidental activities, parsonages and church grounds, the property exempt from taxation being limited to realty exclusive of burying grounds (exemption for which may be claimed under paragraph (4) of this subsection).
- (4) Property used as cemeteries (excluding, however, property used for cremation purposes) maintained by a religious society, or by a corporation, association or trust organized for such purpose.
- (5) Property dedicated to public use by the owner, which dedication has been accepted by the state or county, reduced to writing, and recorded in the bureau of conveyances; and property which has been set aside for public use and actually used therefor for a period not less than five years.
- (6) Property owned by any nonprofit corporation, admission to membership of which is restricted by the corporate charter to members of a labor union; property owned by any government employees' association or organization, one of the primary purposes of which is to improve employment conditions of its members; property owned by any trust, the beneficiaries of which are restricted to members of a labor union; property owned by any association or league of federal credit unions chartered by the United States, the sole purpose of which is to promote the development of federal credit unions in the state.

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Notwithstanding any provision in this section to the contrary, the exemption shall apply to property or any portion thereof which is leased, rented or otherwise let to another, if such leasing, renting or letting is to a nonprofit association, organization or corporation.

- (c) This subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more, the lease or rental agreement being in force and recorded in the bureau of conveyances at the time the exemption is claimed, by either:
 - (1) A corporation, society, association or trust having a charter or other enabling act or governing instrument which contains a provision or has been construed by a court of competent jurisdiction as providing that in the event of dissolution or termination of the corporation, society, association or trust, or other cessation of use of the property for the exempt purpose, the real property shall be applied for another charitable purpose or shall be dedicated to the public, or
 - (2) A corporation chartered by the United States under Title 36, United States Code, as a patriotic society.

Exemption is allowed by this subsection for property used for charitable purposes which are of a community, character building, social service or educational nature, including museums, libraries, art academies and senior citizen housing facilities qualifying for a loan under the laws of the United States as authorized by Section 202 of the Housing Act of 1959 as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964 and the Housing and Urban Development Act of 1965.

- (d) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building.
- (e) The term "for nonprofit purposes," as used in this section requires that no monetary gain or economic benefit inure to the person claiming the exemption, or any private shareholder, member or trust beneficiary. "Monetary gain" includes, without limitation, any gain in the form of money or money's worth. "Economic benefit" includes, without limitation, any benefit to a person in the course of that person's business, trade, occupation or employment.

(Sec. 8-10.10, R.O. 1978 (1983 Ed.); Am. Ord. 88-01, 01-52)

Sec. 8-10.11 Exemption--Property used in manufacture of pulp and paper.

All property in the state, both real and personal, actually and solely used or to be used, whether by the owner or lessee thereof, in connection with the manufacture of pulp and paper from bagasse fibre, shall be exempt from property taxes for a period of five years from the first day of October following commencement of construction of a plant or plants on the property for such purpose. (Sec. 8-10.11, R.O. 1978 (1983 Ed.); Am. Ord. 96-15)

Sec. 8-10.12 Exemption--Crop shelters.

Any other law to the contrary notwithstanding, any permanent structure constructed or installed on any taxable real property consisting of frames or supports and covered by rigid plastic, fiber glass or other rigid and semirigid transparent or translucent material, and including wooden laths, used primarily for the protection of crops shall be exempted in determining and assessing the value of such taxable real property for 10 years or for a period of 10 years from the first day of October following commencement of construction or installation of the structure on the property for such purpose; provided, that any temporary structure so constructed or installed and covered by flexible plastic or other flexible transparent or translucent material, used for such purpose, shall be so exempted not subject to the 10 year limitation; provided further, that such exemption shall continue only so long as the structure is maintained in good condition. Only structures used for commercial agricultural or horticultural purposes shall be included in the exemption. (Sec. 8-10.12, R.O. 1978 (1983 Ed.); Am. Ord. 96-15)

Sec. 8-10.13 Exemption--Dedicated lands in urban districts.

- (a) Portions of taxable real property which are dedicated and approved by the director of finance as provided for by this section shall be exempted in determining and assessing the value of such taxable real property.
- (b) Any owner of taxable real property in an urban district desiring to dedicate a portion or portions thereof for landscaping, open spaces, public recreation and other similar uses shall petition the director of finance stating the exact area of the land to be dedicated and that the land is not within the setback and open space requirements of applicable zoning and building code laws and ordinances, and that the land shall be used,

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improved and maintained in accordance with and for the sole purpose for which it was dedicated, except that land within a historic district may be so dedicated without regard to the setback and open space requirements of applicable zoning and building code laws and ordinances.

The director shall make a finding as to whether the use to which such land will be dedicated has a benefit to the public at least equal to the value of the real property taxes for such land. Such finding shall be measured by the cost of improvements, the continuing maintenance thereof, and such other factors as the director may deem pertinent. If the director finds that the public benefit is at least equal to the value of real property taxes for such land, the director shall approve the petition and declare such land to be dedicated land.

- (c) The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner's land for a minimum period of 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time after the end of the fifth year.
- (d) Failure of the owner to observe the restrictions on the use, improvement, and maintenance of the owner's land shall cancel the special tax exemption privilege retroactive to the date of the original dedication, and all differences in the amount of taxes that were paid and those that would have been due from the assessment of the tax exempted portion of the owner's land shall be payable together with interest of five percent a year from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use, improve and maintain the land in the manner requested in the petition or any overt act changing the use for any period. Nothing in this paragraph shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.
- (e) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year and shall be approved or disapproved by October 31st of such year. If approved, the exemption based upon the use requested in the dedication shall be effective July 1st of the following tax year.
- (f) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
- (g) The director shall make and adopt necessary rules and regulations including such rules and regulations governing minimum areas which may be dedicated for the improvement and maintenance of such areas.
- (h) "Landscaping" means lands which are improved by landscape architecture, cultivated plantings or gardening.
- (i) "Open spaces" means lands which are open to the public for pedestrian use and momentary repose, relaxation and contemplation.
- (j) "Public recreation" refers to lands which may be used by the public as parks, playgrounds, historical sites, campgrounds, wildlife refuges, scenic sites, and other similar uses.
- (k) "Owner" includes lessees of real property whose lease term extends at least 10 years from January 1st following the filing of the petition.

(Sec. 8-10.13, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15)

Sec. 8-10.14 Exemption--Air pollution control facility.

- (a) The value of all property in the county (not including a building and its structural components, other than a building which is exclusively a treatment facility) actually and solely used or to be used as an air pollution control facility as the term is defined in HRS Chapter 237, shall be exempted from the measure of the taxes imposed by this chapter; provided, however, the property exemption shall be applicable only with respect to a certified facility which is property (1) the construction, reconstruction or erection of which is completed by the taxpayer after June 30, 1969, or (2) acquired by the taxpayer after June 30, 1969, if the original use of the property commences with the taxpayer after June 30, 1969; provided, further, the facility is placed in service by the taxpayer before July 1, 1975.
- (b) Application for the exemption provided herein shall first be made with the state director of health who shall, if satisfied that the facility meets the pollution emission criteria established by the state department of health, certify to that fact. Upon receipt of the certification from the department of health, the director of finance shall exempt the facility from the tax imposed by this chapter. A new certificate shall be obtained from the director of health and filed with the director of finance every two years certifying that the pollution control facility complies with the pollutant emission criteria established by the department of health. The director of finance shall furnish all forms required by this section.
- (c) The director of finance shall promulgate rules and regulations necessary to administer this section.

(Sec. 8-10.14, R.O. 1978 (1983 Ed.))

Sec. 8-10.15 Exemption--Alternate energy improvements.

- (a) The value of all improvements in the county (not including a building or its structural components, except where alternate energy improvements are incorporated into the building, and then only that part of the

building necessary to such improvement) actually used for an alternate energy improvement shall be exempted from the measure of the taxes imposed by this article.

- (b) As used in this section "alternate energy improvement" means any construction or addition, alteration, modification, improvement or repair work undertaken upon or made to any building which results in:
 - (1) The production of energy from a source, or uses a process which does not use fossil fuels, nuclear fuels or geothermal source. Such energy source may include, but shall not be limited to, solid wastes, wind, solar or ocean waves, tides or currents; or
 - (2) An increased level of efficiency in the utilization of energy produced by fossil fuels or in the utilization of secondary forms of energy dependent upon fossil fuels for its generation.
- (c) Alternate energy production or energy by-products transferred, marketed or sold on a commercial basis shall not qualify for exemption under the provisions of this section. Provided further, that alternate energy improvements used primarily for personal consumption and producing excess energy incidental to personal consumption may transfer, market or sell such excess energy produced and continue to qualify for the exemption as provided for by the provisions of this section; however, the transfer, marketing or sale shall be limited to less than 25 percent of the total energy output produced by such improvements. Nuclear fission and geothermal energy sources shall be excluded from the provisions of this section.
- (d) Application for the exemption provided by this section shall be made with the director of finance on or before September 30th, preceding the tax year for which the exemption is claimed, except that no claim need be filed for the exemption of solar water collectors, heaters, heat pumps and similar devices. The director of finance may require the taxpayer to furnish reasonable information in order that the director may ascertain the validity of the claim for exemption made under this section and may adopt rules and regulations to implement this section.

(Sec. 8-10.15, R.O. 1978 (1983 Ed.); Am. Ord. 96-15)

Sec. 8-10.16 Exemption--Fixtures used in manufacturing or producing tangible personal products.

There shall be exempted and excluded from the measure of the taxes imposed by this chapter, all fixtures which are categorized as machinery and other mechanical or other allied equipment which are primarily and substantially used in manufacturing or producing tangible personal products. (Sec. 8-10.16, R.O. 1978 (1983 Ed.))

Sec. 8-10.17 Exemption--Public property.

The following real property shall be exempt from taxation:

- (a) Real property belonging to the United States, to the state or to the county; provided, that real property belonging to the United States shall be taxed upon the use or occupancy thereof as provided in Section 8-10.18, and there shall be a tax upon the property itself if and when the Congress of the United States so permits, to the extent so permitted and in accordance with any conditions or provisions prescribed in such act of Congress; provided, further, that real property belonging to the state or the county, or belonging to the United States and in the possession, use and control of the state, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the "owners" thereof for the purposes of this chapter, in the following cases:
 - (1) Property held on October 1st preceding the tax year under an agreement for its conveyance by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made.
 - (2) Property held on October 1st preceding the tax year under a government lease shall be entered in the assessment lists and such tax rolls for that year as fully taxable for the entire tax year, but adjustments of the taxes so assessed may be made as provided for by this chapter so that such tenants are required to pay only so much of the taxes as is proportionate to the portion of the tax year during which the real property is held or controlled by them.
 - (3) Property held under a government lease commencing after October 1st preceding the tax year or under an agreement for its conveyance or a conveyance by the government, made after October 1st preceding the tax year, shall be assessed as omitted property as provided for by this chapter, but the taxes thereon shall be prorated so as to require the payment of only so much of the taxes as is proportionate to the remainder of the tax year.
 - (4) Property where the occupancy by the tenant for commercial purposes has continued for a period of one year or more, whether the occupancy has been on a permit, license, month-to-month tenancy or otherwise, shall be fully taxable to the tenant after the first year of occupancy, and the property shall be assessed in the manner provided in subdivisions (2) and (3) of this subsection for the assessment of properties held under a government lease; provided, that the property occupied by the tenant solely for residential purposes on a month-to-month tenancy shall be excluded from this paragraph.

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- (5) (A) In any case of occupancy of a building or structure by two or more tenants, or by the government and a tenant, under a lease for a term of one year or more, the tax shall be assessed to the tenant upon so much of the value of the entire real property as the floor space occupied by the tenant proportionately bears to the total floor space of the structure or building.
 - (B) For the purposes of subdivisions (2) and (3) of this subsection: "lease" means any lease for a term of one year or more or which is renewable for such period as to constitute a total term of one year or more. A lease having a stated term shall, if it otherwise comes within the meaning of the term "lease," be deemed a lease notwithstanding any right of revocation, cancellation, or termination reserved therein or provided for thereby. Whenever a lease is such that the highest and best use cannot be made of the property by the lessee, the measure of the tax imposed on such property pursuant to subdivisions (2) and (3) of this subsection shall be its fee simple value upon consideration of the highest and best use which can be made of the property by the lessee.
 - (C) Provided, further, that real property belonging to the United States, even though not in the possession, use and control of the state, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the "owners" thereof for the purposes of this chapter, in the following cases:
 - (i) Property held on October 1st preceding the tax year under an agreement for the conveyance of the same by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made, but the assessment thereof shall not impair and shall be so made as to not impair, any right, title, lien or interest of the United States.
 - (ii) Property held under an agreement for the conveyance of the same or a conveyance of the same by the government, made after October 1st preceding the tax year, shall be assessed as omitted property as provided for by this chapter, but the taxes thereon shall be prorated so as to require the payment of only so much of such taxes as is proportionate to the remainder of the tax year, and in the case of property held under an agreement for the conveyance of the same but not yet conveyed, the assessment thereof shall not impair, and shall be so made as to not impair, any right, title, lien or interest of the United States.
- (b) Subject to HRS Section 101-39(B), any real property in the possession of the state or county which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the state or county; provided the fact of such possession has been certified to the director as provided by HRS Section 101-36 or 101-38, or is certified not later than September 30th preceding the tax year for which such exemption is claimed.
 - (c) Real property with respect to which the owner has granted to the state or county a right of entry and upon which the state or county has entered and taken possession under the authority of the right of entry with intention to acquire the fee simple estate therein and to devote the real property to public use; provided the state or county shall have, prior to September 30th preceding the tax year for which the exemption is claimed, certified to the director the date upon which it took possession.
 - (d) Any portion of real property within the area upon which construction of buildings is restricted or prohibited and which is actually rendered useless and of no value to the owners thereof by virtue of any ordinance establishing setback lines thereon; provided, that in order to secure the exemption the person claiming it shall annually file between September 15th and September 30th preceding the applicable tax year a sworn written statement with the director describing the real property in detail and setting forth the facts upon which exemption is claimed, together with a written agreement that in consideration of the exemption from taxes the owner will not make use of the land in any way whatsoever during the ensuing year. Any person who has secured such exemption who violates the terms of the agreement shall be fined twice the amount of the tax which would be assessed upon the land but for such exemption.
 - (e) Real property exempted by any laws of the United States which exemption is not subject to repeal by the council.
 - (f) Any other real property exempt by law.
- (Sec. 8-10.17, R.O. 1978 (1983 Ed.); Am. Ord. 95-67; Am. Ord. 96-15)

Sec. 8-10.18 Lessees of exempt real property.

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- (a) When any real property which for any reason is exempt from taxation is leased to and used or occupied by a private person in connection with any business conducted for profit, such use or occupancy shall be assessed and taxed in the same amount and to the same extent as though the lessee were the owner of the property and as provided in subsection (b) of this section, provided, that:
- (1) The foregoing shall not apply to the following:
 - (A) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed.
 - (B) Any property or portion thereof taxed under any other provision of this chapter to the extent and for the period so taxed.
 - (C) Federal property for which payment of certain contributions are made under Section 6-58, and which is leased to a private person, who under such lease is contractually obligated to develop, rehabilitate, maintain and operate a military housing project under the authority of the National Defense Authorization Act for Fiscal Year 1996, P.L. 104-106, Title XXVIII, Subtitle A-Military Housing Privatization Initiative (codified at 10 U.S.C. Sections 2871-2885), as amended, including all improvements thereon, provided such federal property does not use the county's refuse and road maintenance services, and routine police, fire and ambulance services, where "routine police, fire and ambulance services" do not include services provided by the county on such federal property (i) pursuant to agreements between the federal government and the county or the State of Hawaii, including without limitation, mutual aid agreements, or (H) in accordance with policies or procedures developed by the county to coordinate the provision of such services as between the federal government and the county.
 - (2) The term "lease" means any lease for a term of one year or more, or which is renewable for such period as to constitute a total term of one year or more. A lease having a stated term shall, if it otherwise comes within the meaning of the term "lease," be deemed a lease notwithstanding any right of revocation, cancellation or termination reserved therein or provided for thereby.
 - (3) The assessment of the use or occupancy shall be made in accordance with the highest and best use permitted under the terms and conditions of the lease.
- (b) The tax shall be assessed to and collected from such lessee as nearly as possible in the same manner and time as the tax assessed to owners of real property, except that the tax shall not become a lien against the property. In case the use or occupancy is in effect on October 1st preceding the tax year, the lessee shall be assessed for the entire year but adjustments of the tax so assessed shall be made in the event of the termination of the use or occupancy during the year so that the lessee is required to pay only so much of the tax as is proportionate to the portion of the tax year during which the use or occupancy is in effect, and the director is authorized to remit the tax due for the balance of the tax year. In case the use or occupancy commences after October 1st preceding the tax year, the lessee shall be assessed for only so much of the tax as is proportionate to the period that the use or occupancy bears to the tax year.
- (c) The assessment of the use or occupancy of real property made under this section shall not be included in the aggregate value of taxable realty for the purposes of Section 8-11.1 but the council, at the time that it is furnished with information as to the value of taxable real property, shall also be furnished with information as to the assessments made under this section, similarly determined but separately stated.
- (d) If a use or occupancy is in effect on October 1st preceding the tax year, the assessment shall be made and listed for that year and the notice of assessment shall be given to the taxpayer in the manner and at the time prescribed as provided for by this chapter, and when so given, the taxpayer, if said taxpayer deems oneself aggrieved, may appeal as provided for by this chapter, if a use or occupancy commences after October 1st preceding the tax year or if for any reason an assessment is omitted for any tax year, the assessment shall be made and listed and notice thereof shall be given, and an appeal may be taken therefrom in the manner and at the time prescribed in Section 8-3.4.

(Sec. 8-10.18, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, Ord. 04-38)

Sec. 8-10.19 Property of the United States leased under the National Housing Act.

Real property belonging to the United States leased pursuant to Title VIII of the National Housing Act, as amended or supplemented from time to time:

- (a) Shall not be taxed under this chapter upon the lessee's interest or any other interest therein, except as provided in subsection (b) of this section.
- (b) Shall be taxed under this chapter to the extent of and measured by the value of the lessee's interest in any portion of the real property (including land and appurtenances thereof and the buildings and other

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improvements erected on or affixed on the same) used for, or in connection with, or consisting in, shops, restaurants, cleaning establishments, taxi stands, insurance offices, or other business or commercial facilities. The tax shall be assessed to and collected from the lessee. The assessment of such property shall not impair, and shall be so made as to not impair, any right, title, lien or interest of the United States.

(Sec. 8-10.19, R.O. 1978 (1983 Ed.))

Sec. 8-10.20 Exemption—Low-income rental housing.

(a) For the purposes of this section:

“Dwelling unit” means a room or rooms connected together, constituting an independent living unit and containing a single kitchen and at least one bathroom. A dwelling unit shall not include a unit used for time sharing or as a transient vacation unit.

“Housing project” means a rental housing project where at least 20 percent of the dwelling units are reserved for low-income residents. The housing project must be situated on (i) a single parcel of land, (ii) multiple parcels of land that are contiguous, or (iii) noncontiguous multiple parcels of land which are separated from each other only by a road or roads. If the housing project is comprised of multiple parcels of land, or is comprised of individual dwelling units, each situated upon a subdivided parcel of land, the regulatory agreement must specifically identify each such parcel of land or dwelling units as comprising the housing project.

“Kitchen” means a facility in a dwelling unit that exists when there are fixtures, appliances or devices for all of the following: (1) heating or cooking of food, (2) washing of utensils used for dining and food preparation and/or for washing and preparing food, and (3) refrigeration of food.

“Low-income” means the annual income of a household that does not exceed 80 percent of the area median income for the county as determined by the United States Department of Housing and Urban Development.

“Nonprofit or limited distribution mortgagor” means a mortgagor who qualifies for and obtains mortgage insurance under Sections 202, 221(d)(3) or 236 of the National Housing Act as a nonprofit or limited distribution mortgagor.

“Owner” shall include a lessee of the property whose lease term extends at least as long as the regulated period.

“Regulatory agreement” means an agreement between an owner and the federal government, state government or a political subdivision of the state government, or agency of the federal government, agency of the state government or agency of the political subdivision of the state government, embodying provisions regulating rents, charges, profits, dividends, development costs, and methods of operation, in accordance with the laws, policies, or rules of the federal government, state government or of the political subdivision of the state government, or agency of the federal government, agency of the state government or agency of the political subdivision of the state government.

“Regulated period” means the period during which a housing project is subject to a regulatory agreement, which shall not be less than 15 years.

(b) Real property which is owned and operated by (i) a nonprofit, limited distribution mortgagor, or (ii) a person, corporation, trust, partnership or association which is used for a housing project that is subject to a regulatory agreement shall be exempt from property taxes for the duration of the regulated period. This exemption shall be incorporated into any and all agreements, including regulatory and loan agreements as applicable.

(1) If the qualifying housing project is comprised of multiple parcels of land, each parcel comprising the housing project shall be exempt from property taxes.

(2) If the housing project fails to meet the requirements under this section at any time during the regulated period, the exemption shall be cancelled and the housing project shall be subject to taxes and penalties as determined in Section 8-10.21(c).

(3) If any portion of the housing project that qualifies for an exemption under this section is transferred during the regulated period, the exemption shall be cancelled and the entire housing project, including the portion retained, if any, and the portion transferred, shall be subject to the taxes and penalties pursuant to Section 8-10.21(c)(3). The taxes and penalties shall not apply to any portion of the housing project for which a new claim is filed for an exemption for low-income rental housing as described in this section within 30 days of the recordation or filing of the sale or transfer with the registrar of the bureau of conveyances or the assistant registrar of the land court, whichever is applicable, and the exemption is granted by the director.

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- (4) If the entire housing project is sold or otherwise transferred during the regulated period, a new claim for exemption must be filed within 30 days of the recordation or filing of such sale or transfer with the registrar of the bureau of conveyances or the assistant registrar of the land court, whichever is applicable. Failure to file a new claim for exemption or meet the qualifications under this section shall result in cancellation of the exemption and taxes and penalties imposed pursuant to Section 8-10.21(c).
 - (c) The exemption provided in this section shall not apply to any commercial portion of the property that is used for commercial or other purposes, and not for the primary use of the tenants of the housing project.
 - (d) Where a housing project is situated upon a single parcel of land, if any portion of the property is ineligible for the property tax exemption under this section:
 - (1) The remaining eligible portion shall not be deprived of the exemption;
 - (2) The ineligibility of a portion of the property for exemption under this section shall not disqualify that portion from exemption under any other law; and
 - (3) The tax shall be assessed upon so much of the value of the building and land thereunder as the proportion of the nonexempt floor area bears to the total floor area of the building.
 - (e) Exemptions claimed under this section shall disqualify the same property from receiving an exemption under HRS Section 53-38.
- (Sec. 8-10.20, R.O. 1978 (1983 Ed.); Am. Ord. 90-31, 02-68)

Sec. 8-10.21 Claim for exemption.

- (a) Notwithstanding any provision in this chapter to the contrary, any real property determined by the director to be exempt from property taxes under Section 8-10.20 shall be exempt from property taxes effective as of the date the application is filed with the director; provided, that the initial application for exemption shall be filed with the director within 60 days of the qualification or in the failure thereof by September 30th preceding the tax year for which the exemption is claimed. A copy of the regulatory agreement that has been recorded with the registrar of the bureau of conveyances or filed with the assistant registrar of the land court, whichever is applicable, shall be filed with the application along with any additional documents determined by the director to be necessary to supplement the application. As used herein, the date of the qualification shall be the earlier of: (i) the date when the mortgage made by the nonprofit or limited distribution mortgagor and insured under Section 202, 221(d)(3) or 236 of the National Housing Act is recorded or (ii) the date the regulatory agreement is recorded with the registrar of the bureau of conveyances or the assistant registrar of the land court of the state, whichever is applicable.

For a housing project that qualified for an exemption from real property taxation under Section 8-10.20 before the effective date of this ordinance, the first application filed after the effective date of this ordinance shall be deemed the initial filing under this subsection.

After the initial year for which the real property has qualified for an exemption, a claim for an exemption shall be filed annually on or before September 30th, together with a document from the agency regulating the housing project certifying that the housing project continues to be in compliance with the initial regulatory agreements and is in compliance with the applicable low-income rental requirements in the manner provided by applicable law or rule.
- (b) In the event property taxes have been paid to the county in advance for real property that subsequently qualifies for the exemption, the director shall refund to the owner that portion of the taxes attributable to and paid for the period after the qualification.
- (c) Cancellation of Exemption-Penalties.
 - (1) Notice by Director

Following the initial year for which real property has qualified for an exemption, if an owner fails to file a claim for continued exemption by the September 30th deadline, the director shall promptly mail a notice to the owner at the owner's address of record stating that unless a claim for continued exemption and all the necessary documents are received by the director by November 15th of the same year, the exemption shall be cancelled.
 - (2) Cancellation of Exemption

An owner who has been sent a notice under paragraph (1) by the director and who fails to file for an exemption by the November 15th deadline shall have the exemption cancelled and the housing project shall be subject to taxes and penalties pursuant to paragraph (3).

In the event the director finds that the initial or subsequent claim for exemption contains false or fraudulent information, the housing project fails to meet the requirements of Section 8-10.20 during the regulated period, or the owner fails to file annually during the regulated period as required under this section, the director shall cancel the exemption retroactive to the date the exemption was first

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granted pursuant to an initial filing under subsection (a), and the housing project shall be subject to the taxes and penalties determined in paragraph (3).

(3) **Back Taxes and Penalties**

In the event a housing project is subject to taxes and penalties as provided in paragraph (2), the differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed shall be payable, together with interest at 10 percent per annum, from the respective dates that these payments would have been due. The taxes and penalties due shall be a paramount lien upon the real property.

In addition, in the event a claim for an exemption is submitted after the September 30th deadline but on or before the November 15th deadline, a late filing penalty of \$500.00 shall be imposed.

(Sec. 8-10.21, R.O. 1978 (1983 Ed.); Am. Ord. 02-68)

Sec. 8-10.22 Exemption--Historic residential real property dedicated for preservation.

- (a) Portions of residential real property which are dedicated and approved by the director of budget and fiscal services as provided for by this section, shall be exempt from real property taxation except as provided by Section 8-9.1. The owners shall assure reasonable visual access to the public.
- (b) An owner of taxable real property, that is the site of a historic residential property that has been placed on the Hawaii Register of Historic Places after January 1, 1977, desiring to dedicate a portion or portions thereof for historic preservation, shall petition the director of budget and fiscal services.
- (c) The director of budget and fiscal services shall review the petition and determine what portion or portions of the real property shall be exempted from real property taxes. The director shall consult with the state historic preservation office in making this determination. The director may take into consideration whether the current level of taxation is a material factor which threatens the continued existence of the historic property, and may determine the total area or areas of real property that shall be exempted.
- (d) The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner's exempted property for a minimum period of 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time after the end of the fifth year.
- (e) Failure of the owner to observe the restrictions of subsection (d) of this section shall cancel the tax exemption and privilege retroactive to the date of the dedication, and all differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed by this section shall be payable together with interest at 12 percent per annum from the respective dates that these payments would have been due, provided the provision in this subsection shall not preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.
- (f) Any person who becomes an owner of real property that is permitted an exemption under this section shall be subject to the restrictions and duties imposed under this section.
- (g) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year and shall be approved or disapproved by October 31st of such year. The exemption provided for by this section shall be effective October 1st of the same calendar year.
- (h) An owner applicant may appeal any determination as in the case of an appeal from an assessment.
- (i) Subject to HRS Chapter 91, the director shall adopt rules and regulations decreed necessary to accomplish the foregoing.
- (j) The owner of a historic residential property that has received an exemption from real property taxation pursuant to this section shall place and maintain on that property a sign or plaque that has been approved by the director and the state historic preservation officer. Subject to HRS Chapter 91, the director shall adopt rules prescribing the requirements for such a sign or plaque.

(Sec. 8-10.22, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 01-23)

Sec. 8-10.23 Other exemptions.

Exemptions to real property taxes as set forth in HRS Chapter 53 "Urban Renewal Law" and Chapter 183 "Forest Reserves, Water Development, Zoning", and in Section 208 of the Hawaiian Homes Commission Act, 1920, and which were enacted prior to November 7, 1978, shall remain in effect and be recognized and implemented by the city in its administration of the real property tax system; provided that real property leased under homestead and not general lease pursuant to the authority granted the Department of Hawaiian Home Lands by Section 207 of the Hawaiian Homes Commission Act, 1920, shall be exempt from real property taxes, the seven-year limitation on the exemption afforded by Section 208 of the Hawaiian Homes Commission Act, 1920, notwithstanding. (Sec. 8-10.23, R.O. 1978 (1983 Ed.); Am. Ord. 92-38, 92-63, 93-13, 93-112, 97-56, 00-65)

Sec. 8-10.24 Exemption--Credit union.

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- (a) Real property owned in fee simple or leased for a period of one year or more by a federal or state credit union which is actually and exclusively used for credit union purposes shall be exempt from real property taxes. If the property for which exemption is claimed is leased, the lease agreement shall be in force and recorded in the bureau of conveyances at the time the exemption is claimed. As used in this section, "federal credit union" means a credit union organized under the Federal Credit Union Act of 1934, 12 U.S.C. Chapter 14, as amended, and "state credit union" means a credit union organized under the Hawaii Credit Union Act, HRS Chapter 410, as amended.
 - (b) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building.
- (Added by Ord. 88-01)

Sec. 8-10.25 Exemption - Slaughterhouses.

All real property in the city used exclusively by the owner or lessee for purposes of slaughtering or butchering cattle, pigs, poultry animals or other domestic livestock for commercial slaughterhouse purposes shall be exempt from real property taxes for a period of ten years. In the case of newly constructed slaughterhouses, the exemption shall apply to the tax year following the first day of October following commencement of construction of such slaughterhouse. (Added by Ord. 93-6; Am. Ord. 96-15)

Sec. 8-10.26 Exemption—Qualifying construction work.

- (a) Any incremental increase in the valuation of buildings primarily attributable to qualifying construction work shall be exempt from property taxes for a period of seven years following the completion of the qualifying construction work, provided that:
 - (1) The qualifying construction work commences on or after January 1, 1999 as evidenced by the issuance date of the building permits;
 - (2) The qualifying construction work is completed on or before June 30, 2003 unless extended pursuant to subsection (d); and
 - (3) The laborers and mechanics who performed the qualifying construction work were paid at or above the rate of wages established by Hawaii Revised Statutes Chapter 104 and the applicable rules adopted thereunder.
- (b) As used in this section:

"Incremental increase in the valuation of buildings primarily attributable to qualifying construction work" shall be determined by subtracting the valuation of buildings on the property as determined in the real property tax assessment immediately preceding June 22, 1999 from the valuation of buildings following the completion of qualifying construction work as of June 22, 1999.

"Qualifying construction work" means work to construct new buildings, or to construct additions or renovations to existing buildings, located on land which is classified in accordance with Section 8-7.1 as hotel and resort, commercial, industrial, preservation, or agricultural."
- (c) The date of the completion of the construction shall be established by the date of the department of planning and permitting's inspection completion date, or the last of the inspection completion dates, where multiple inspections are required for the electrical, plumbing and/or architectural and structural work allowed under the building permit.
- (d) The claimant may request an extension of time of up to one year but no later than June 30, 2004 to complete construction, and only if a major change in circumstances beyond the control of the claimant has occurred since the issuance of the building permit which causes the delay. The request for an extension setting forth the claimant's justification for an extension shall be made in writing to the director of planning and permitting and either receipt-stamped by the department or U.S. postmarked. By either method, the request shall be receipt-stamped or U.S. postmarked no later than June 29, 2003. The decision of the director of planning and permitting on the request shall be final.
- (e) The claim for exemption shall be filed with the department of budget and fiscal services on or before September 30th preceding the first tax year for which such exemption is claimed on such form as shall be prescribed by the department, and shall be supported by documentation establishing the date of the issuance of the building permit, the department of planning and permitting's inspection completion date, and the

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director of planning and permitting's decision to grant an extension of time to complete construction, if applicable.

- (f) The claim for exemption, once allowed, shall continue for a period of seven years provided that where an extension has been granted under subsection (d) in no event shall such exemption be allowed beyond June 30, 2012.
- (g) In order to confirm that the laborers and mechanics who performed the qualifying construction work were paid at or above the applicable rate of wages, every claim for exemption filed with the department of budget and fiscal services shall include documentation in a form satisfactory to the director of budget and fiscal services which establishes that the wage rates for the laborers and mechanics who performed the qualifying construction work were not less than the wage rates established by HRS Chapter 104 and the applicable rules adopted thereunder. This documentation shall include, but not be limited to, a notarized affidavit from the claimant establishing that the wage rates for the laborers and mechanics who performed the qualifying construction work were not less than the wage rates established by HRS Chapter 104 and the applicable rules adopted thereunder.

(Sec. 8-10.26, R.O. 1990; Am. Ord. 99-42, 00-45, 02-39)

Sec. 8-10.27 Exemption—Public Service.

- (a) Real Property which is owned, or leased and actually used by a public service company shall be exempt from real property taxes.
- (b) If the property for which exemption is claimed is leased by the public service company for a period of one year or more, the lease agreement shall be in force and recorded in the bureau of conveyances at the time the exemption is claimed.
- (c) The exemption provided in this section shall not apply to any portion of the property that is not used for the primary purpose of the public service company.
- (d) If any portion of the property is ineligible for the property tax exemption under this section:
 - (1) The remaining eligible portion shall not be deprived of the exemption;
 - (2) The ineligibility for exemption under this section shall not disqualify that portion for an exemption under any other law; and
 - (3) The tax shall be assessed upon so much of the value of the building and land thereunder as the proportion of the nonexempt floor area bears to the total floor area of the building.
- (e) "Public service company" shall be as defined under Section 8-7.1(c)(8).

(Added by Ord. 01-60, Am. Ord. 04-34, 04-35)

Sec. 8-10.28 Additional terms and conditions for exemption of low-income rental housing projects on Hawaiian home lands.

- (a) For the purposes of this section:

"Hawaiian home lands" means the lands described in the Hawaiian Homes Commission Act, Hawaii Revised Statutes, Section 201.

The definitions provided in Section 8-10.20(a) shall also apply to this section.
- (b) A low-income rental housing project that occupies Hawaiian home lands and qualifies for an exemption from real property taxes pursuant to Section 8-10-20 shall be subject to the following additional terms and conditions:
 - (1) The exemption shall be for the duration of the regulated period, provided that the lease remains in force and effect for the duration of said regulated period. This exemption shall be incorporated into any and all agreements, including regulatory and loan agreements as applicable.
 - (2) If the qualifying housing project is comprised of multiple parcels of land, each parcel comprising the housing project shall be:
 - (A) Exempt from property taxes; and
 - (B) Subject to the assessment of the minimum tax under Section 8-11.1; provided that for an exempt rental housing project consisting of no more than one hundred (100) parcels of land, in the event full payment of the annual minimum tax is received on or before June 30th prior to the tax year for any one of the parcels comprising the exempt rental housing project, no minimum tax shall be due and owing for the tax year for any of the other parcels comprising the exempt rental housing project; provided further, that no tax bill shall be issued for the June 30th full minimum tax payment.

(Added by Ord. 02-68)

Sec. 8-10.29 Exemption-Nonprofit Organization Thrift Shops.

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- (a) Notwithstanding Section 8-10.10(d), real property used for a thrift shop shall be exempt from property taxes, provided that:
 - (1) The thrift shop is operated by a nonprofit organization that sells goods;
 - (2) Ninety percent or more of the goods sold in the thrift shop have been donated; and
 - (3) All of the net revenues from the thrift shop are used to provide job training and employment services or drug rehabilitation services at no cost to the person being trained or rehabilitated.
 - (b) For the purposes of this section, the term “nonprofit organization” means an association, corporation or other entity, organized and operated exclusively for religious, charitable, scientific, literary, cultural, educational, recreational or other nonprofit purposes, no part of the assets, income or earnings of which inures to the benefit of any individual or member thereof, and whose charter or other enabling act contains a provision that, in the event of dissolution, the assets owned by such association, corporation or other entity shall be distributed to another association, corporation or other entity organized and operated exclusively for nonprofit purposes, and which further qualifies for exemption under Section 501 of the Internal Revenue Code of 1954, as amended.
 - (c) “Thrift shop” means a retail outlet.”
- (Added by Ord. 03-05)

Sec. 8-10.30 Exemption-Historic commercial real property dedicated for preservation.

- (a) An owner of commercial property which has been placed on either the National or the Hawaii Register of Historic Places after January 1, 1977 who wishes to dedicate such property for historic preservation may petition the director to obtain an exemption from real property taxation as provided herein. As used in this section, “commercial property” means properties classified for real property tax purposes as commercial and excludes properties classified for real property tax purposes as hotel and resort or industrial.
- (b) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year and shall be approved or disapproved by December 15th of such year. If approved, the exemption shall be effective July 1st of the immediately following tax year.
- (c) The petition shall include a covenant that has been recorded with the bureau of conveyances or the land court, whichever is applicable. The covenant shall ensure that the public is provided reasonable visual access to the historic commercial real property and that the property is maintained in accordance with a maintenance agreement approved by the director, in consultation with the state historic preservation division, non-profit historic preservation organizations and the director of planning and permitting.
- (d) The director shall review the petition and determine whether the historic commercial landmark shall be granted the real property tax exemption. The director shall consult with the state historic preservation office and non-profit historic preservation organizations in making this determination.
- (e) Upon approval of the petition, 50 percent of the value of that real property or portion thereof that is designated as a historic site shall be exempt from real property taxes.
- (f) The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner’s exempted property as specified in the maintenance agreement for a minimum period of ten years. The petition shall be automatically renewable for an unlimited number of additional ten-year periods.
- (g) Upon determining that the owner has failed to observe the restrictions of the covenant, the director shall cancel the exemption retroactive to the date of the dedication, and all differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed by this section shall be payable together with interest at 12 percent per annum from the respective dates that these payments would have been due, provided the provision in this subsection shall not preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.
- (h) An owner applicant may appeal any adverse determination as in the case of an appeal from an assessment.
- (i) The director shall adopt rules pursuant to HRS Chapter 91 as deemed necessary to accomplish the purposes of this section

(Added by Ord. 04-17)

Sec. 8-10.31 Exemption—Qualifying agricultural improvements for dedicated vacant agricultural lands.

- (a) As used in this section:
 - “Drainage systems” means agricultural systems of channels, ditches, pipes, pumps, and accessory facilities established for the purpose of drawing off water from a land area.
 - “Incremental increase in the valuation of real property attributable to qualifying agricultural land improvements” means the sum of all documented expenses incurred to construct the qualifying agricultural land improvements.

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“Irrigation systems” means the agricultural systems of intakes, diversions, wells, ditches, siphons, pipes, reservoirs, and accessory facilities established for the purpose of providing water for agricultural production.

“Qualifying agricultural land improvements” means construction, reconstruction or improvement of irrigation systems, drainage systems or roads, soil conservation, fire protection or animal control measures on land classified as vacant agriculture under 8-7.1(c) and dedicated for 10 years under section 8-7.3(d), where the cost of such improvements is equal to or greater than \$10,000.00.

- (b) Any incremental increase in the valuation of real property attributable to qualifying agricultural land improvements shall be exempt from property taxes for a period of seven years following the construction of the agricultural land improvements.
- (c) The claim for exemption shall be filed with the director on or before September 30th preceding the tax year for which such exemption is claimed on such form as shall be prescribed by the department. The claim shall be supported by documentation describing the agricultural land improvements, establishing that the agricultural land improvements have been constructed, and establishing the amount of expenses therefor. Any additional qualifying agricultural improvements for a subsequent fiscal year shall be separately claimed.
- (d) The claim for exemption, once allowed, shall continue for a period of seven years.

(Added by Ord. 04-34)

Article 11. Determination of Rates

Sections:

8-11.1 Real property tax--Determination of rates.

Sec. 8-11.1 Real property tax--Determination of rates.

- (a) Unless a different meaning is clearly indicated by the context, as used in this section, “net taxable real property” means the fair market value of property determined pursuant to this chapter which the director of budget and fiscal services certifies as the tax base as provided by ordinance less exemptions as provided by ordinance and, in all cases where appeals from the director’s assessment are then unsettled, less 50 percent of the value in dispute.
- (b) The council shall annually set the tax rate or rates for the classes of real property established in accordance with subsection 8-7.1(c). A resolution setting the tax rate or rates shall be adopted by the council during the same meeting at which the applicable legislative and executive budget bills are passed on third reading. The tax rate or rates shall be set according to the following procedures:
 - (1) The council shall advertise its intention to set the tax rate or rates and the date, time and place of a public hearing in accordance with law. The date of the public hearing shall be not less than 10 days after the advertisement is first published and shall set forth the proposed tax rate or rates to be considered by the council.
 - (2) After the public hearing provided for in subdivision (1) of this subsection, the council shall readvertise and reconvene to adopt a resolution setting the tax rate or rates for the tax year for which property tax revenues are to be raised. The advertisement shall state the rate or rates proposed to be set and the date, time and place of the meeting scheduled for setting the rate or rates. The date, time and place of the meeting shall also be announced at the public hearing required by subdivision (1) of this subsection.
 - (3) If, after adopting an increase or decrease in the tax rates as provided by subdivisions (1) and (2) of this subsection, the council determines that it requires a further increase or decrease in tax rates, the council shall readvertise and follow the requirements of subdivisions (1) and (2) of this subsection.
- (c) The council shall set the tax rate for each class of real property for a tax year by using the following method:
 - (1) Net taxable real property within each class shall be assigned a percentage of the total revenue to be derived from all real property.
 - (2) The percentage of revenue to be raised from net taxable real property within each class shall be multiplied by the total revenue to be raised from all real property in order to determine the amount of revenue to be derived from that class.
 - (3) The amount of revenue to be raised from each class shall be divided by the net taxable real property of that class to determine the applicable tax rate. The tax rate shall be expressed as a dollar amount per \$1,000.00 of net taxable real property.
- (d) The council shall notify the director of budget and fiscal services of the tax rate or rates set for a tax year before the commencement of that tax year. Upon receipt of the notification, the director shall use the rate or rates in the levying of property taxes as provided by this chapter.
- (e) The director of budget and fiscal services shall, on or before February 1st preceding the tax year, furnish the council with a calculation certified by the director as being as nearly accurate as may be, of the net taxable real property within the county, separately stated for each class established in accordance with subsection 8-7.1(c) plus such additional data relating to the property tax base as may be necessary. The director shall include the sum of the value of all claims granted under Article 13 of this chapter and the amount of all such claims appealed during the current tax year as part of the information required by this subsection.
- (f) Insofar as the validity of any tax rate is concerned, the provisions of subsection (e) of this section as to dates shall be deemed directory; provided, that all other provisions of this section shall be deemed mandatory.
- (g) Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under this chapter a minimum real property tax of \$100.00 a year, except for properties exempt under Section 8-10.27 and except as provided in Section 8-10.28(b)(2).

(Sec. 8-11.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-75, 96-15, 01-60, 02-45, 02-68)

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Article 12. Appeals

Sections:

- 8-12.1 Generally.**
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- 8-12.3 Grounds of appeal--Real property taxes.**
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- 8-12.12 Taxes paid pending appeal.**
- 8-12.13 Amendment of assessment list to conform to decision.**
- 8-12.14 Appeals settled by director.**

Sec. 8-12.1 Generally.

Any taxpayer or owner who may deem himself or herself aggrieved by an assessment made by the director or by the director's refusal to allow any exemption, may appeal from the assessment or from such refusal to the board of review or the tax appeal court pursuant to HRS Section 232-16 on or before January 15th preceding the tax year, as provided in this article. Where such an appeal is based upon the ground that the assessed value of the real property for tax purposes is excessive, the valuation claimed by the taxpayer or owner in the appeal shall be admissible in evidence, in any subsequent condemnation action involving the property, as an admission that the fair market value of the real property as of the date of assessment is no more than the value arrived at when the assessed value from which the taxpayer or owner appealed is adjusted to 100 percent fair market value; provided, that such evidence shall not in any way affect the right of the taxpayer or owner to any severance damages to which the taxpayer or owner may be entitled. (Sec. 8-12.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 97-55)

Sec. 8-12.2 Appeals by persons under contractual obligations.

Whenever any person is under a contractual obligation to pay a tax assessed against another, the person shall have the same rights of appeal to the board of review and the tax appeal court and the Supreme Court, in such person's own name, as if the tax were assessed against such person. The person against whom the tax is assessed shall also have a right to appear and be heard on any such application or appeal. (Sec. 8-12.2, R.O. 1978 (1983 Ed.))

Sec. 8-12.3 Grounds of appeal--Real property taxes.

In the case of a real property tax appeal, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered or an exemption allowed, unless there is shown (1) assessment of the property exceeds by more than 10 percent the market value of the property, or (2) lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved, or (3) denial of an exemption to which the taxpayer is entitled and for which such person has qualified, or (4) illegality, on any ground arising under the Constitution or laws of the United States or the laws of the state or the ordinances of the city in addition to the ground of illegality of the methods used, mentioned in clause (2). (Sec. 8-12.3, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 8-12.4 Second appeal.

In every case in which a taxpayer appeals a real property tax assessment to the board of review or to the tax appeal court and there is pending an appeal of the assessment, the taxpayer shall not be required to file a notice of the second appeal; provided, the first appeal has not been decided prior to January 15th preceding the tax year of the second appeal; and provided further, the director gives notice that the tax assessment has not been changed from the assessment which is the subject of the appeal. (Sec. 8-12.4, R.O. 1978 (1983 Ed.); Am. Ord. 96-15, 97-55)

Sec. 8-12.5 Small claims.

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Any protesting taxpayer who would incur a total tax liability, not including penalties and interest, of less than \$1,000.00 by reason of the protested assessment or payment in question, may elect to employ the small claims procedures of the tax appeal court as set out in HRS Section 232-5. (Sec. 8-12.5, R.O. 1978 (1983 Ed.))

Sec. 8-12.6 Boards of Review--Appointment, removal, compensation.

- (a) There shall be two boards of review for the City and County of Honolulu, each of which shall consist of five members. In addition to meeting the requirements established in RCH Section 13-103, the members shall have resided in the state for at least three years at the time of their appointments. The appointment of a member shall be to serve on one of the boards of review for the duration of the member's appointment and, in accordance with section 8-12.7(c), to serve, temporarily, as a substitute member of the other board of review for meetings for which such other board is unable to establish a quorum, but not due to a vacancy on such board. Any vacancy in either of the boards shall be filled for the unexpired term as provided for in the charter.
- (b) A chair and vice-chair of each board shall be elected annually from among the board's membership by its respective members. The vice-chair shall serve as the chair of the board during the chair's temporary absence from the city, illness, or disqualification. Each member may receive and be paid out of the treasury compensation for such member's services for each day's actual attendance and the member's actual traveling expenses. (Sec. 8-12.6, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-16)

Sec. 8-12.7 Boards of review--Duties, powers, procedure before.

- (a) Each board for the City and County of Honolulu shall hear disputes between the director and any taxpayer in all cases in which appeals have been duly taken. The fact that a notice of appeal has been duly filed by a taxpayer shall be conclusive evidence of the existence of a dispute. However, this provision shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with the taxpayer's return, as may be required pursuant to this chapter, unless the taxpayer shows lack of uniformity or inequality as set forth in Section 8-12.3.
- (b) The assignment of particular tax appeals to one or the other of the boards of review shall be made by the director.
- (c) Upon the request of the chair of one board, the chair of the other board may administratively, and without requirement of formal action of that chair's board, temporarily assign a member of that board to serve as a substitute member of the first board for purposes of establishing a quorum at a designated meeting or designated meetings of the first board. The substitute member temporarily assigned under this subsection shall serve only for the particular board meeting or meetings for which the assignment is made and only so long as a quorum may not be maintained by the board to which the substitute member is assigned. During the period of the substitute member's assignment, the substitute member may participate in the discussion of and vote on all appeals before the board. Nothing herein shall prevent a member from again being assigned under this subsection.
- (d) Each board shall hold public meetings at some central location in the city commencing not later than January 15th of each year and shall hear, as expeditiously as possible, all appeals assigned to it for each year. With the exception of questions involving the Constitution or laws of the United States, each board shall have the authority to decide all questions of fact and all questions of law necessary to the determination of the objections raised by the taxpayer in the notice of appeal; provided, that the board shall not have the authority to determine or declare an assessment illegal or void. Each board shall have the authority to allow or disallow exemptions pursuant to law, whether or not previously allowed or disallowed by the director, and to increase or lower any assessment.
- (e) Each board shall base each of its decisions on the evidence before it and, as provided in Section 8-1.18, the assessment made by the director shall be deemed prima facie correct. Assessments for the year upon other similar property situated in the city shall be received in evidence upon the hearing. In increasing or lowering any real property assessment, the board shall be governed by this chapter. Each board shall file with the director its written decision on each appeal, and a certified copy thereof shall be delivered or mailed by the director forthwith to the taxpayer concerned at the taxpayer's last known place of residence or business.
- (f) Upon completion of its review of the property tax appeals for the current year, each board shall compile and submit to the mayor and the council, and shall file with the director for the use of the public, copies of a report detailing the work of the board, which is directed at meeting the objectives of this chapter. The board additionally shall report on instances in which the director, in the application of the valuation methods selected by the director, erred as to the assessment of a particular property or particular properties not brought before the board by any appeal. Before commencing this phase of its work, each board shall publish, during the first week of September, a notice specifying a period of at least 10 days within which

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complaints may be filed by any taxpayer. Each complaint shall be in writing, shall identify the particular property involved, shall state the valuation claimed by the taxpayer and the grounds of objection to the assessment, and shall be filed with the director who shall transmit the same to the appropriate board. Not earlier than one week after the close of the period allowed for filing complaints, the appropriate board shall hear the same, after first giving reasonable notice of the hearing to all interested taxpayers and the director. Like notice and hearing shall be given in order for the board to include in its report any other property not brought before it by an appeal. The board may proceed by districts designated by their tax map designation, and may from time to time publish the notice above provided for as the work proceeds by districts.

- (g) The director, in the making of assessments for the succeeding year, shall give due consideration to the reports of the boards made pursuant to subsection (f).
- (h) Each board, in addition to all other powers, also shall have the authority to subpoena witnesses, administer oaths, examine books and records, and hear and take evidence in relation to any subject pending before the board. It may request the tax appeal court to order the attendance of witnesses and the giving of testimony by them, and the production of books, records and papers at the hearings of the board.
- (i) Each board may, pursuant to Section 8-12.14(d)(1), review settlement offers made by the director. Each board shall, pursuant to Section 8-12.14(e), review all settlement offers made by the director that were rejected by the taxpayer.

(Sec. 8-12.7, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 96-16, 97-55, 05-009)

Sec. 8-12.8 Appeal to tax appeal court.

- (a) An appeal to the tax appeal court may be filed by a taxpayer or the director as provided in HRS Sections 232-8 through 232-14 and Sections 232-16 through 232-18.
- (b) Appeals to the state supreme court shall conform to HRS Sections 232-19 through 232-21.

(Sec. 8-12.8, R.O. 1978 (1983 Ed.))

Sec. 8-12.9 Appeal to board of review.

- (a) A notice of appeal to the board of review must be lodged with the director on or before the date fixed by law for the taking of the appeal. Notwithstanding any other provision to the contrary, a notice of appeal deposited in the mail, postage prepaid, and properly addressed to the director, shall be deemed to have been lodged with the director on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing the notice of appeal.
- (b) The notice of appeal must be in writing and any such notice, however informal it may be, identifying the assessment involved in the appeal, stating the valuation claimed by the taxpayer and the grounds of objection to the assessment shall be sufficient. Upon the necessary information being furnished by the taxpayer to the director, the director shall prepare the notice of appeal upon request of the taxpayer or county and any notice so prepared by the director shall be deemed sufficient as to its form.
- (c) The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary for the determination of the objections raised by the taxpayer in the notice of appeal. Any objection involving the Constitution or laws of the United States may be included by the taxpayer in the notice of appeal and in such case the objections may be heard and determined by the tax appeal from a decision of the board of review; but this provision shall not be construed to confer upon the board of review the power to hear or determine such objections. Any notice of appeal may be amended at any time prior to the board's decision; provided, the amendment does not substantially change the dispute or lower the valuation claimed.

(Sec. 8-12.9, R.O. 1978 (1983 Ed.); Am. Ord. 93-20)

Sec. 8-12.10 Costs--Deposit for an appeal.

- (a) The costs to be deposited by the taxpayer on appeal to the board of review shall be twenty-five dollars for each real property tax appeal.
- (b) The cost to be deposited by the taxpayer on any appeal to the tax appeal court or the state supreme court shall be as provided in HRS Sections 232-22 and 232-23.

(Sec. 8-12.10, R.O. 1978 (1983 Ed.), Am. Ord. 96-02))

Sec. 8-12.11 Costs—Outcome of appeal.

- (a) In the event of an appeal by a taxpayer to the board of review, except appeals settled pursuant to Section 8-12.14, if the appeal is compromised, or sustained as to 50 percent or more of the valuation in dispute, the

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costs deposited shall be returned to the appellant. Otherwise the entire amount of costs deposited shall be retained by the city.

- (b) In the event of an appeal by a taxpayer to a board of review following the taxpayer's rejection, pursuant to Section 8-12.14(c)(3) or (e), of a settlement offer made by the director, if the board's ultimate assessment of the real property, adjusted for any exemptions or credits allowed by the board, is greater than the director's settlement offer, adjusted for any exemptions or credits allowed by the director, the taxpayer shall pay \$250.00, to cover all administrative and staff costs incurred by the city related to the taxpayer's appeal to the board of review. If the actual administrative and staff costs exceed \$1,000.00, however, the director may request, and the board of review may award, the actual costs established by the director (Sec. 8-12.11, R.O. 1978 (1983 Ed., Am. Ord. 05-009))

Sec. 8-12.12 Taxes paid pending appeal.

- (a) In any case of any appeal to the tax appeal court, 50 percent of the tax paid upon the amount of the assessment actually in dispute and in excess of that admitted by the taxpayer shall, pending the final determination of the appeal, be paid by the director into the "litigated claims account." If the final determination is in whole or in part in favor of the appealing taxpayer, the director shall repay to the taxpayer out of the account, or if there is a deficit in the account, out of the general fund of the city, the amount of the tax paid upon the amount held by the court to have been excessive or nontaxable, together with interest at a rate to be determined by the director based upon the average interest rate earned on city investments in the general fund during the previous fiscal year. Interest shall be calculated from the date of each payment by the taxpayer. The balance, if any, of the payment made by the appealing taxpayer and paid into the litigated claims fund, or the whole of the payment paid into the litigated claims fund, in case the decision is wholly in favor of the assessor, shall, upon the final determination become a realization of the general fund.
- (b) In case of an appeal to the board of review, 50 percent of the tax paid upon the amount of the assessment actually in dispute and in excess of that admitted by the taxpayer, shall during the pendency of the appeal and until and unless an appeal is taken to the tax appeal court, be held by the director in a special deposit. In the event of final determination of the appeal in the board of review, the director shall repay to the appealing taxpayer out of the deposit, or if there is a deficit in the account, out of the general fund of the city, the amount of the tax paid upon the amount held by the board to have been excessive or nontaxable, if any, the balance, if any, or the whole of the deposit, in case the decision is wholly in favor of the director to become a realization of the general fund.

(Sec. 8-12.12, R.O. 1978 (1987 Supp. to 1983 Ed.), Am. Ord. 05-030)

Sec. 8-12.13 Amendment of assessment list to conform to decision.

The director shall alter or amend the assessment and the assessment list in conformity with the decision or judgment of the last board or court to which an appeal may have been taken. (Sec. 8-12.13, R.O. 1978 (1983 Ed.))

Sec. 8-12.14 Appeals settled by director.

- (a) The director may review any appeal prior to a hearing by the board of review to which the appeal is assigned. The director shall notify the board of review to which the appeal is assigned of his/her review of the appeal.
- (b) For each appeal reviewed by the director, the director shall:
 - (1) Make a conditional offer of settlement of the appeal by allowing or disallowing exemptions or credits pursuant to law, and/or increasing or lowering the assessment amount; or
 - (2) Notify the board of review to which the appeal is assigned that the director will not be making a conditional offer of settlement for the appeal. If the director gives the notification of subdivision (2), the board shall review the appeal.
- (c) If making a conditional offer of settlement, the director shall deliver or mail the offer to the taxpayer concerned at the taxpayer's last known place of residence or business. The date of delivery or mailing shall be printed on the offer. The offer shall be accompanied by notice to the taxpayer that:
 - (1) Even if the taxpayer accepts the conditional settlement offer, the offer may be rejected by the board, within 45 days of the director's notice to the board that the taxpayer accepted the offer;
 - (2) If the taxpayer rejects the offer, the board shall review the appeal but the taxpayer may be liable for all administrative and staff costs for the appeal pursuant to Section 8-12.11(b); and
 - (3) The taxpayer may accept or reject the director's settlement offer by providing to the director, by personal delivery or certified mail, notice of the taxpayer's acceptance or rejection of the offer. If the director does not receive a notice of acceptance or rejection within 30 days of delivering or mailing the offer to the taxpayer, the offer shall be deemed rejected.

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- (d) If the taxpayer accepts the conditional settlement offer, the director shall notify the board to which the appeal is assigned in writing of the conditional settlement offer and the taxpayer's acceptance thereof.
 - (1) Pursuant to Section 8-12.7(i), the board to which the appeal is assigned may review the director's accepted conditional settlement offer. Written notice shall be provided by the board of its decision to approve or reject the director's offer within 45 days of the date of the director's notification. The notice shall be delivered or mailed to the taxpayer concerned at the taxpayer's last known place of residence or business. The board's decision shall be final.
 - (2) If the board either approves the director's accepted settlement offer or fails to reject the offer within 45 days of the director's notification, the director's accepted settlement offer shall be final.
 - (e) If the taxpayer rejects the director's conditional settlement offer, the director shall notify the assigned board of the rejection. The board shall then review the appeal.
 - (f) No later than 90 days following the close of each tax year, the director shall submit to the city clerk a report of all settlements entered into by the director and approved by the board during the tax year, detailing the name of the taxpayer, the tax parcel involved, and the amount of the assessment as initially determined and as settled.
- (Added by Ord. 05-009)

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Article 13. County Tax Credit*

[*Editor's Note: Article 13 title was amended by Ordinance 03-28.]

Sections:

8-13.1 Definitions.

8-13.2 Real property tax credit established.

8-13.3 Administration.

8-13.4 Appeal.

8-13.5 Penalties.

8-13.6 Revocation of credit.

Sec. 8-13.1 Definitions.

When used in this article:

"City" means the City and County of Honolulu.

"Director" means the director of the department of budget and fiscal services.

"Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code of the United States of 1954, as amended, and all nontaxable income, including but not limited to the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance and relief (not including relief granted under this article), the gross amount of any pension or annuity benefits received (including Railroad Retirement Act benefits and veterans disability pensions), all payments received under the federal Social Security and state unemployment insurance laws, nontaxable interest received from the federal government or any of its instrumentalities, workers' compensation, the gross amount of "loss of time" insurance, nontaxable contributions to public or private pension, annuity or deferred compensation plans, federal cost of living allowances, and the deduction allowed for two-earner married couples under Section 221 of the Internal Revenue Code of the United States of 1954, as amended. All income set forth in the tax return filed by the title holder, whether the tax return is a joint return or an individual tax return, shall be considered the title holder's income. "Income" does not include nonmonetary gifts from private sources, or surplus foods or other relief in kind provided by public or private agencies.

"Property owner" shall be as defined in Section 8-6.3.

"Qualified surviving spouse" means a person who:

- (1) Is the surviving spouse of a property owner who, at the time of death, was the owner of property which was granted a tax credit under this article;
- (2) Is a transferee of the property directly from the deceased property owner or the estate thereof; and
- (3) Qualifies under this article for the tax credit on the same property.

"Real property tax credit" means the tax credit established pursuant to Section 8-13.2.

"Taxes Owed" means the tax calculated for the owner's property in the tax roll under Sec.8-3.1(a).

"Title holder" means the property owner and any other entity listed on the deed or any other legal instrument establishing the entity's ownership right in the property. The term includes corporations and other business entities and trusts. The term does not include mortgagees.

(Sec. 8-13.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-28, 04-43, 05-26)

Sec. 8-13.2 Real property tax credit established.

- (a) An owner shall be entitled to a real property tax credit equal to the amount by which the taxes calculated for the property exceed four percent of the title holder's income, provided:

- (1) The owner has been granted the home exemption under Section 8-10.4;
- (2) The taxes owed for the tax year immediately succeeding the date of the application for the tax credit, exceed four percent of the title holders' combined income for the calendar year immediately preceding the date of the application;
- (3) The combined income of all title holders of the property for the calendar year immediately preceding the date of the application does not exceed \$50,000;
- (4) No title holder owns any other real property anywhere during the applicable tax year;
- (5) The title holders have not violated Section 8-13.5; and
- (6) The amount of the tax after applying the credit shall not be less than the minimum tax required in Section 8-11.1(g).

- (b) The grant of the application of a tax credit shall entitle the owner to a credit only for the succeeding tax year. There shall be no carryover tax credit.

(Sec. 8-13.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-28, 04-43, 05-26)

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(Sec. 8-13.3 Administration. Repealed by Ord. 03-28.)

Sec. 8-13.3 Administration.

- (a) The director shall determine the eligibility of the owner for a tax credit upon review and verification of each application for the tax credit. The application form shall be as prescribed by the director. To verify information in the application, the director shall require proof of the income of each of the title holders. The director shall require that each title holder provide a certified copy of the title holder's State of Hawaii income tax return for the most recent tax year. Furthermore, if a title holder provides a certified copy of State income tax form N-11, a certified copy of the title holder's federal tax return for the most recent tax year must also be provided.
- The applicant may refuse to provide such records, information or authorization. However, upon such refusal, the director may deny the application for a tax credit. Notwithstanding any provision to the contrary, there shall be no appeal from such a decision of the director to deny an application due to the applicant's refusal to provide records, information or authorization.
- (b) The owner's application for a tax credit shall be filed on or before September 30th for a credit upon taxes due in the immediately succeeding tax year. The application shall require the certification by the owner that:
- (1) The requirements of Section 8-13.2(a)(3) shall be fulfilled throughout the succeeding tax year; and
 - (2) The owner's property shall continue to qualify for a home exemption under Section 8-10.4 throughout such year.
- (c) The director shall determine if the owner qualifies for a tax credit before December 31st preceding the tax year and, in the event the application is denied, the director shall notify the applicant in writing on or before the December 31st date.
- (1) If an application for a tax credit is granted, the director shall apply the credit to the property tax bill issued pursuant to Section 8-3.2, apportioned in two equal parts between the two installments of taxes due pursuant to said section.
 - (2) If an application for a tax credit is denied, the director shall:
 - (A) State the basis for denial; and
 - (B) Inform the applicant that the director's decision may be appealed, and the procedure and deadline for appeal.

(Added by Ord. 03-28); Am. Ord.04-43, 05-26)

Sec. 8-13.4 Appeal.

The director shall, pursuant to the provisions of HRS Chapter 91, establish appeals procedures for denied tax credit applications. (Sec. 8-13.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-28)

Sec. 8-13.5 Penalties.

- (a) Any person who:
- (1) Files a fraudulent application or attests to any false statement with the intent to defraud the city or evade the payment of real property taxes or any part thereof; or
 - (2) In any manner intentionally deceives or attempts to deceive the city,
- shall be guilty of a violation and be subject to a criminal fine of not more than \$2,000, in addition to being responsible for paying any outstanding taxes, interest and penalties.
- (b) During the tax year for which a tax credit was granted to an owner of property pursuant to this article, if the owner fails to notify the city within 30 days that the requirements of Section 8-13.2(a) are no longer met, in addition to the consequences provided in Section 8-13.6, the owner shall be subject to a fine of \$200.

(Sec. 8-13.5, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-28)

Sec. 8-13.6 Revocation of credit.

During the tax year for which a tax credit is granted to an owner of property pursuant to this article, if:

- (1) Title to the property is transferred to a new owner by gift, sale, devise, operation of law, or otherwise, except when title is transferred to a qualified surviving spouse, or
- (2) The requirements of Section 8-13.2(a) are no longer met, then the tax credit shall be revoked and the owner shall owe property taxes in the amount of the tax credit. The additional taxes shall be billed and shall be deemed delinquent if not paid within 30 days after the date of mailing of the tax bill, or if the credit is revoked within the tax year for which the credit was granted, within 30 days after the date of mailing of the tax bill, or on or before the next installment payment date, if any, for such taxes, whichever is later.

(Added by Ord. 03-28)

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**(Article 14. Reporting of Honolulu Real Property Interests Owned or Acquired by Foreign Persons
Repealed by Ord. 04-03).**

Article 14. Reserved

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Article 15. Severability

Sections:

8-15.1 Severability.

Sec. 8-15.1 Severability.

The provisions of this chapter are declared to be severable. In accordance therewith, if any portion of said chapter is held invalid for any reason, the validity of any other portion of this chapter shall not be affected and if the application of any portion of this chapter to any person, property or circumstance is held invalid, the application hereof to any other person, property or circumstance shall not be affected. (Sec. 8-13.1, R.O. 1978 (1983 Ed.); Sec. 8-14.1, R.O. 1987 Supp.)

Article 16. Tax Credit for Septic Tank to Replace Household Cesspool

Sec. 8-16.1 Definitions.

For the purposes of this article:

“Cesspool” means a covered lined or partially lined pool, pit or deep hole in the ground to receive untreated discharges of sewage and from which the liquids seep into the surrounding soil through the bottom or sides.

“Disposal system” means any seepage pit, effluent irrigation system, soil absorption system, disposal trench, or other facility used in the disposal of wastewater, including any wastewater transmission lines, pumps, power, or other equipment associated with the ultimate disposal of wastewater, provided that the term shall not include any cesspool or injection well.

“Eligible costs” means costs incurred after the effective date of this ordinance.

“Septic tank” means a watertight settling tank in which settled sludge is in immediate contact with the sewage flowing through the tank and the organic solids are decomposed by an anaerobic bacterial action.

“Wastewater” means the same as that term is defined in Section 14-1.2.

(Added by Ord. 05-002)

[**Editor’s Note:** “February 9, 2005” is substituted for “the effective date of this ordinance.”]

Sec. 8-16.2 Septic tank cesspool replacement tax credit established.

(a) An owner of residential real property in the city whose property utilizes a cesspool to dispose of domestic wastewater and who replaces the cesspool with a septic tank shall be entitled a one-time tax credit under this article against the owner’s real property tax liability unless:

- (1) A sewer improvement district that would serve the property is planned by the department of environmental services to be established within ten years after the date of application for the tax credit;
- (2) The conversion to a septic tank is required by the State of Hawaii, Department of Health, as a condition of expanding the size of the dwelling/dwellings; or
- (3) The conversion to a septic tank is required by the U.S. Environmental Protection Agency.

(b) The amount of the tax credit shall not exceed 50 per cent of the total cost of the septic tank and disposal system; provided that the tax credit shall apply only to the actual cost to the owner of the septic tank and disposal system and their installation, and shall not include the cost of consumer incentive premiums unrelated to the operation or installation of the septic tank and disposal system; provided further that the amount of the resultant tax shall not be less than the minimum tax required in Section 8-11.1(g).

(c) The credit shall be claimed against real property tax liability for the tax year immediately following approval of the application for the credit. The application must be filed only after installation of the septic tank is completed, the septic tank is operational, and the cesspool is permanently sealed. The tax credit shall entitle the owner to a credit only for the single tax year. There shall be no carryover tax credit.

(d) Allowance of a credit under this article shall not preclude future mandatory connection to a sewer system as required in Section 14-1.6(a).

(Added by Ord. 05-002)

Sec. 8-16.3 Administration—Rules.

(a) The director of budget and fiscal services shall determine the eligibility of the owner for the tax credit upon review and verification that the owner’s cesspool has been sealed and a septic tank installed and operational.

(b) The owner shall file an application therefor with the department of budget and fiscal services after installation of the septic tank is completed, the septic tank is operational, and the cesspool is permanently sealed. Application must be filed on or before September 30th preceding the tax year in which the credit would be provided.

(c) The director shall adopt rules having the force and effect of law for the administration, implementation and enforcement of this article.

(Added by Ord.05-002)

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TABLE OF SECTIONS AFFECTED

Section Affected:	AMENDING ORDINANCES:	Section Affected:	AMENDING ORDINANCES:
8-1.1	Added by Ord. 80-72	8-12.11	05-009
8-1.14	01-06	8-12.12	05-030
8-1.18	05-030, 05-41	8-12.14	Added by Ord. 05-009
8-2.1	92-20, 93-95, 96-15, 02-45, 05-003	8-13	03-28, 05-26
8-2.2	92-20, 96-15, 97-55, 02-45	8-13.1	04-43, 05-26
8-3.1	92-124	8-13.2	04-43, 05-26
8-3.3	89-147	8-13.3	05-26
8-3.5	96-15	8-14.1	Added by Ord. 90-68
8-4.2	92-38, 97-56	8-14.2	Added by Ord. 90-68
8.4.3	Added by Ord. 04-44	8-14.3	Added by Ord. 90-68
8-5.10	Added by Ord. 90-19	8-14.4	Added by Ord. 90-68
8-5.11	Added by Ord. 90-19	8-14	Article 14 Repealed by Ord. 04-03 Ordinance 96-15 (Bill 10, 1996) amended various deadlines throughout ROH 8.
8-6.1	92-38, 00-64, 00-65	8-16	Added by 05-002
8-6.2	96-15		
8-6.3	96-15		
8-6.7	96-15		
8-7.1	84-98, 91-84, 92-63, 94-8, 94-79, 00-66, 02-39, 02-45, 04-34, 04-35		
8-7.3	84-98, 92-94, 94-79, 96-15, 02-39, Repealed and added new 8-7.3 by Ord. 04-34		
8-7.4	96-15, 00-64		
8-7.5	96-15		
8-9.1	92-124, 02-45		
8-10.1	88-01, 89-129, 95-67, 96-15, 01-60, 03-05		
8-10.4	88-84, 89-132, 94-76, 96-15, 04-31, 05-004		
8-10.5	92-63, 96-15		
8-10.6	96-15, 00-63		
8-10.8	89-138		
8-10.10	88-01		
8-10.11	96-15		
8-10.12	96-15		
8-10.13	96-15		
8-10.15	96-15		
8-10.17	95-67, 96-15		
8-10.18	96-15, 04-38		
8-10.20	90-31, 02-68		
8-10.21	02-68		
8-10.22	96-15, 01-23		
8-10.23	92-38, 92-63, 93-13, 93-112, 97-56, 00-65		
8-10.24	Added by Ord. 88-01		
8-10.25	Added by Ord. 93-6; 96-15		
8-10.26	Added by Ord. 99-42; 00-45, 02-39		
8-10.27	Added by Ord. 01-60, 04-34, 04-35		
8-10.28	Added by Ord. 02-68		
8-10.29	Added by Ord. 03-05		
8-10.30	Added by Ord. 04-17		
8-10.31	Added by Ord. 04-34		
8-11.1	92-75, 96-15, 01-60, 02-45, 02-68		
8-12.1	96-15, 97-55		
8-12.4	97-55		
8-12.6	96-16		
8-12.7	96-15, 96-16, 97-55, 05-009		
8-12.9	93-20		
8-12.10	96-02		